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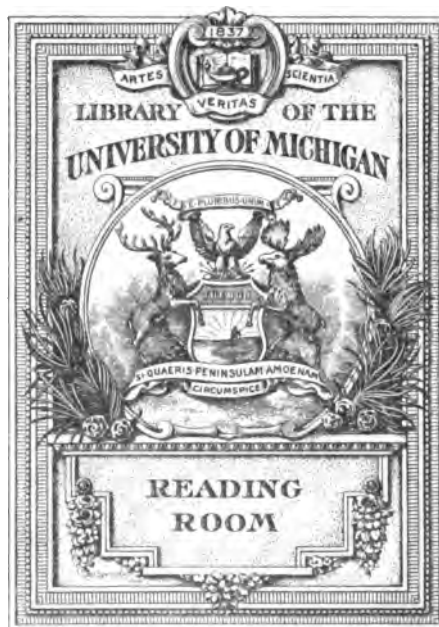
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THE HISTORY
of the
UNITED STATES OF AMERICA

By RICHARD HILDRETH

Revised Edition

IN SIX VOLUMES

VOL. V.



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THE HISTORY
OF THE
UNITED STATES OF AMERICA

Second Series

*FROM THE ADOPTION OF THE FEDERAL
CONSTITUTION TO THE END OF THE SIXTEENTH
CONGRESS, 1788—1821*

VOL. II.: JOHN ADAMS AND JEFFERSON

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HISTORY OF THE UNITED STATES.

CHAPTER X.

RETROSPECT OF THE PRESIDENTIAL ELECTION. INAUGURATION OF THE NEW PRESIDENT AND VICE-PRESIDENT. RELATIONS WITH FRANCE. CALLED SESSION OF THE FIFTH CONGRESS. EXTRAORDINARY MISSION TO FRANCE.

WHILE the result of the presidential election still remained in doubt, Jefferson had written to Madison signifying his desire, that should he and Adams have an equal vote, Adams might be president. "He has always been my senior, from the commencement of our public life, and the expression of the public will being equal, this circumstance ought to give him the preference." Such haste to provide against a double contingency, an equal vote in the electoral colleges, and an equal vote in the House of Representatives, without which Jefferson's declination in favor of Adams could not come into play, might seem a little premature. The offer was perfectly safe, since there was not the least danger that Jefferson's political friends would incline to indulge him in this amiable modesty; yet there is reason to believe that on this occasion Jefferson, for once at least, was sincere. "I am really anxious," the letter adds, "to see the speech"—meaning Washington's speech at the opening of the session of Congress. "It must exhibit a very different picture of our foreign af-

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CHAPTER X. fairs from that presented in the adieu"—Washington's Farewell Address—"or it will not correspond with my views of them. I think they never wore so gloomy an aspect since the year 1783. Let those come to the helm who think they can steer clear of difficulties. I have no confidence in myself for the undertaking."

1796. Dec. 27. In a letter to Edward Rutledge, some ten days later, and when the result of the election was better known, after denying, "on his salvation," his having anything to do with the votes cast for him as president, dexterously hinting that Rutledge, had he chosen to take part in public affairs, might himself have been the candidate—he protests "before his God" his joy at not having been chosen. "I have no ambition," he adds "to govern men, no passion which would lead me to delight to ride in a storm. The newspapers will permit me to plant my corn, peas, &c., in hills or drills, as I please (and my oranges, by-the-by, when you send them), while our Eastern friend will be struggling with the storm which is gathering over us, perhaps be shipwrecked in it. This is certainly not a moment to covet the helm."

Had Jefferson been chosen president, he could not but have found himself in a most embarrassing situation; more perplexing even than that of which, in his intercourse as Secretary of State with Genet, he had already had a bitter experience. To have satisfied, consistently with his own honor and that of his country, the expectations of the ultra French faction in the United States, and of the French government itself, which had taken so affectionate an interest in his election, would have been difficult indeed. A crisis had occurred, which might well make a bolder man quail, especially considering Jefferson's peculiar situation in reference to it; and he might reasonably prefer to leave the helm to Adams,

a man not accustomed to quail at anything; especially if matters could be so arranged as to destroy the influence of Hamilton with the administration, and to bring Adams to depend for congressional support, in part at least, on the late opposition. That such an intrigue was really on foot appears from two letters, one to Adams himself, the other to Madison, sketches of which, written out from memory, as he had omitted to retain copies, are published in Jefferson's Correspondence. The letter to Adams, dated the day after that to Rutledge already quoted, and containing a repetition of many of the same sentiments, makes the following side-thrust at Hamilton: "It is possible, indeed, that even you may be cheated of your succession by a trick worthy the subtlety of your arch-friend of New York, who has been able to make of your real friends tools for defeating their and your just wishes. Probably, however, he will be disappointed as to you, and my inclinations put me out of his reach." The letter to Madison enclosing that to Adams, which Madison was authorized to deliver or not, according to his discretion, developed Jefferson's plan of operations. "If Mr. Adams," said this letter, "could be induced to administer the government on its true principles, quitting his bias for an English constitution, it would be worthy of consideration whether it would not be for the public good to come to a good understanding with him as to his future elections. He is the only sure barrier against Hamilton's getting in."

Madison thought it best not to deliver the letter to Adams—why, we are left to conjecture. Jefferson had stated, in his letter, as a reason why hitherto he had delayed writing to Adams, "a despair to make him believe me sincere." Perhaps Madison shared the same discouragement; perhaps he was not so sanguine as Jeffer-

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Whatever might have been the reasons for keeping back the letter, oral advances were made to Adams, which, so far as compliments were concerned, he seemed well disposed to reciprocate; and this, perhaps, was the real reason why Jefferson's letter was not delivered, the object of it having been otherwise and more safely accomplished. "My letters," so Jefferson wrote soon after to Madison, "inform me that Mr. Adams speaks of me with great friendship, and with satisfaction in the prospect of administering the government in concurrence with me. I am glad of the first information, because, though I saw that our ancient friendship was affected by a little leaven, produced partly by his constitution, partly by the contrivance of others, yet I never felt a diminution of confidence in his integrity, and retain a solid affection for him. His principles of government I know to be changed, but conscientiously changed. As to my participating in the administration, if by that he means the executive cabinet, both duty and inclination will shut that door to me. I cannot have a wish to see the scenes of 1793 revived as to myself, and to descend daily into the arena like a gladiator, to suffer martyrdom in every conflict." Warned by a bitter experience, Jefferson decidedly preferred, if he were to act at all the part of

counselor to the new administration, the post of back-
stairs adviser, a position which according to his estimate
of Adams's character, could not but be very powerful. CHAPTER
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"I sincerely deplore," adds the same letter, "the situa-
tion of our affairs with France. War with them, and
consequent alliance with Great Britain, will completely
compass the object of the executive council from the
commencement of the war between France and Eng-
land, taken up by some of them from that moment, by
others more latterly. I still, however, hope it will be
avoided. I do not believe Mr. Adams wishes war with
France, nor do I believe he will truckle to England as
servilely as has been done. If he assumes this front at
once, and shows that he means to attend to self-respect
and national dignity with both nations, perhaps the dep-
redations of both on our commerce may be amicably ar-
rested. I think we should begin first with those who first
began with us, and, by an example on them, acquire a
right to redemand the respect from which the other party
has departed."

To the affectation of indifference to office, ultra Re-
publican prudery, and maiden reluctance, of which Jef-
ferson's above-quoted letters make such a display, the
correspondence of John Adams, on the same subject, af-
fords a most refreshing contrast. Adams indeed wrote
to his wife, who seems to have been his sole confidant,
to whom he unbosomed himself without restraint, while
Jefferson wrote to political co-operators, in many of
whom he saw or feared political rivals, and with all of
whom he had an object to accomplish. Yet, with all
due allowance for this difference, and though Adams's
letters show him self-deceived no less than Jefferson,
they still exhibit in a strong light the contrast between
his character and that of his rival.

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Applying to the approaching presidential election a quotation from Necker, Adams adds, in illustration of it, "a man who, like myself, has been many more years than Mr. Necker ever was at the center of affairs, and that in a young country which has ever boasted of its simplicity, frugality, integrity, public spirit, public virtue, disinterestedness, &c., can judge from his own experience of the activity of private interest, and perceive in what manner the human heart is influenced, irritated, and soothed by hope. Neglects and sacrifices of personal interest are oftener boasted than practiced. The parade, and pomp, and ostentation, and hypocrisy have been as common in America as in France. When I hear these pretensions set up, I am very apt to say to myself, this man deceives himself, or is attempting to deceive me.

"The various elections of the United States will soon call forth these personal interests in all their vigor, and all the arts of dissimulation to conceal them. I am weary of the game, yet I don't know how I could live out of it. I don't love slight, neglect, contempt, disgrace, nor insult more than others, yet I believe I have firmness of mind enough to bear it like a man, a hero, a philosopher. I might groan like Achilles, and roll from side to side abed sometimes at the ignorance, folly, injustice, and ingratitude of the world, but I should be resigned, and become more easy and cheerful, and enjoy myself and my friend better than ever I did." Lam-
Feb. 15. entable indeed it was, that in this latter estimate of himself Adams proved so entirely mistaken, and that, when the time of trial came, his manliness, heroism, and philosophy so totally failed him. In another letter a few days after, in reply to some suggestions on the part of his wife of apprehensions for the government if

Washington should retire, and of the violence of opposition, to which, if himself chosen president, he might be exposed, Adams writes,—not without exhibiting a little anxiety and trepidation lest, after all, Washington might yet be persuaded to stand for a third term,—“In my opinion, there is no more danger in the change than there would be in changing a member of the Senate, and whoever lives to see it will own me to be a prophet. If Jay or even Jefferson (and one or the other it certainly will be, if the succession should be passed over) should be the man, the government will go on as well as ever. Jefferson could not stir a step in any other system than that which is begun. Jay would not wish it. The votes will run for three persons. Two I have mentioned; the third, being heir-apparent, will not probably be wholly overlooked. If Jefferson and Jay are president and vice-president, as is not improbable, the other retires without noise, or cries, or tears to his farm. If either of these two is president and the other vice-president, he retires without murmur or complaint to his farm forever. If this other should be president, and Jefferson or Jay vice-president, four years more of residence in Philadelphia will be his and your portion, after which we shall probably be desirous of imitating the example of the present pair; or if, by reason of strength and fortitude, eight years should be accomplished, that is the utmost limit of time that I will ever continue in public life at any rate.

“Be of good courage, therefore, and tremble not. I see nothing to appal one, and I feel no ill forebodings or faint misgivings. I have not the smallest dread of private life or of public. If private life is to be my portion, my farm and my pen shall employ the rest of my days.”

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March 1.

But though Adams professed a readiness to retire with a good grace to private life, he did not affect to represent that retirement as a matter of choice: "I hate to live in Philadelphia in summer, and I hate still more to relinquish my farm. I hate speeches, messages, addresses and answers, proclamations, and such affected, studied, constrained things. I hate levées and drawing-rooms. I hate to speak to a thousand people to whom I have nothing to say. Yet all this I can do. But I am too old to continue more than one, or, at most, more than two heats, and that is scarcely time enough to form, conduct, and complete any very useful system." The debate on Jay's treaty being then fully under way, we find him exhibiting, a few days after, the spirit of an old war-horse, pawing the ground and panting for the battle:

March 13.

"There are bold and daring strides making to demolish the president, Senate, and all but the House, which, as it seems to me, must be the effect of the measures which many are urging." "I sometimes think that if I were in the House of Representatives, and could make speeches there, I could throw some light upon these things. If Mr. Jefferson should be president, I believe I must put up as a candidate for the House. But this is my vanity I feel sometimes as if I could speechify among them; but, alas! alas! I am too old. It would soon destroy my health. I declare, however, if I were in that House, I would drive out of it some demons that haunt it. There are false doctrines and false jealousies predominant there at times that it would be easy to exorcise." As to the office of vice-president, which Jefferson professed to find so well suited to his wishes and his temper, Adams never lost an opportunity of expressing his disgust at its tedious and insipid insignificance.

With respect to foreign relations, the opinions and

feelings of Adams were precisely such as to place him beyond all possibility of foreign influence, and to fit him for carrying out with energy and impartiality the system of exact neutrality which Washington had adopted. Whatever might be his admiration for the British Constitution, his feelings were altogether too warm and unyielding to have entirely subsided from that high pitch of indignation against the British government to which the Revolutionary struggle had raised them, and which his experience as minister to England, baffled as he had been, had not tended to allay. These feelings, indeed, had lately received a fresh impulse from a slight, or imagined slight, to John Quincy Adams, then minister to Holland, during a temporary visit to England, in relation to which the elder Adams wrote: "I am glad of it, for I would not have my son go so far as Mr. Jay, and affirm the friendly disposition of that country to this. I know better. I know their jealousy, envy, hatred, and revenge, covered under pretended contempt."

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Yet on the other hand, he was entirely free from that political fanaticism which had so run away with Giles, Monroe and others, and had so distorted the judgment of Jefferson as to make him, keenly as he felt any wrong or imagined wrong from Great Britain, perfectly supple under the chidings and the lash of the French Directory; leading him, as in his letter above quoted, to denounce Washington's neutral policy as a servile truckling to England. Adams did not believe in French politics. He had predicted from the beginning the failure of the French in their attempts to establish a free government; and however his residence abroad might have inspired him with esteem for that people as individuals, he had brought home with him very little confidence in French political sincerity. In a letter to his wife, written on his

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CHAPTER X. way to Philadelphia, and before the result of the election had been finally determined, he had expressed, with a calm intrepidity, in striking contrast to Jefferson's timid apprehensions, his views of the posture of affairs.

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In conformity with a notification issued by Washing-

ton just before the expiration of his period of office, the Senate of the United States assembled in special session on the first day of the new presidential term. No new senators appeared at this session. Schuyler, chosen in New York to succeed Burr, was too sick to take his seat. Most of the other senators whose term had expired had been rechosen. The vice-president elect, having written to his friends in Congress not to allow, in his case, the ceremony of a special messenger, upon a mere notice through the mail had hastened to Philadelphia. But he could not escape a ceremonious reception by a company of artillery, composed of his political friends, who greeted the auspicious occasion with a salvo of cannon, displaying a flag having for motto, "Jefferson, the friend of the people." On taking his seat as president of the Senate, Jefferson delivered a short and modest address. It contained a declaration of zealous attachment to the Constitution and the Union, and concluded with a high compliment to the "eminent character" who had preceded him in his present station, whose talents and integrity he had known and revered through a long course of years, the foundation of a cordial and uninterrupted friendship, and whom he declared to have been justly preferred to himself for the higher office.

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This ceremony concluded, the Senate adjourned to the chamber of the Representatives, where a brilliant assembly, including many ladies, had already collected to witness the inauguration of the new president. In front of the speaker's chair sat the chief justice, with three other judges of the Supreme Court. The new vice-president and the secretary of the Senate took seats on their right; on their left sat the speaker and clerk of the late House. The doors being opened, a crowd filled the galleries with a rush. When Washington entered the

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1797. hall, shouts of applause broke forth from all sides. Being now a private citizen, he took a seat in front of the judges. The president elect came in soon after, attended by the heads of departments and the marshal of the district. As he ascended to the chair, he also was received with shouts. Having been seated for a few moments, he rose, and delivered an inaugural address, very elaborately prepared, and quite unrivaled in that line of composition. Sketching with a few bold strokes the origin of the Federal Constitution, and declaring his original and continued approval of it, he emphatically denied—no doubt with a view to the political heresies which had been charged upon him—that it had ever been any objection in his mind that the executive and Senate were not more permanent, or that he had ever entertained a thought of promoting any alterations “but such as the people themselves, in the course of their experience, should see and feel to be necessary or expedient, and by their representatives in Congress and the State Legislatures, according to the Constitution itself, adopt and ordain.”

“Returning to the bosom of my country after a painful separation from it for ten years, I had the honor to be elected to a station under the new order of things, and I have repeatedly laid myself under the most serious obligations to support the Constitution. The operation of it has equaled the most sanguine expectations of its friends; and from an habitual attention to it, satisfaction in its administration, and delight in its effects upon the peace, order, prosperity, and happiness of the nation, I have acquired an habitual attachment to it, and veneration for it.

“What other form of government, indeed, can so well deserve our esteem and love?

"There may be little solidity in an ancient idea that congregations of men into cities and nations are the most pleasing objects in the sight of superior intelligences; but this is very certain, that, to a benevolent human mind, there can be no spectacle presented by any nation more pleasing, more noble, majestic, or august than an assembly like that which has often been seen in this and the other chamber of Congress, of a government in which the executive authority, as well as that of all the branches of the Legislature, is exercised by citizens selected, at regular periods, by their neighbors to make and execute laws for the general good. Can any thing essential, any thing more than mere ornament and decoration, be added to this by robes and diamonds? Can authority be more amiable and respectable, when it descends from accidents, or institutions established in remote antiquity, than when it springs fresh from the hearts and judgments of an honest and enlightened people? For it is the people only that are represented; it is their power and majesty that is reflected, and only for their good, in every legitimate government, under whatever form it may appear. The existence of such a government as ours, for any length of time, is a full proof of a general dissemination of knowledge and virtue throughout the whole body of the people. And what object or consideration more pleasing than this can be presented to the human mind? If national pride is ever justifiable or excusable, it is when it springs not from power or riches, grandeur or glory, but from conviction of national innocence, information, and benevolence.

"In the midst of these pleasing ideas, we should be unfaithful to ourselves if we should ever lose sight of the danger to our liberties, if any thing partial or extraneous should infect the purity of our free, fair, virtuous,

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1797. and independent elections. If an election is to be determined by a majority of a single vote, and that can be procured by a party through artifice or corruption, the government may be the choice of a party for its own ends, not of the nation for the national good. If that solitary suffrage can be obtained by foreign nations by flattery or menaces, by fraud or violence, by terror, intrigue, or venality, the government may not be the choice of the American people, but of foreign nations. And candid men will acknowledge that, in such cases, choice would have little advantage to boast of over lot or chance.

“Such is the amiable and interesting system of government (and such are some of the abuses to which it is exposed) which the people of America have exhibited to the admiration and anxiety of the wise and virtuous of all nations, for eight years, under the administration of a citizen, who, by a long course of great actions, regulated by prudence, justice, temperance, and fortitude, conducting a people inspired with the same virtues, and animated with the same ardent patriotism and love of liberty, to independence and peace, to increased wealth and unexampled prosperity, has merited the gratitude of his fellow-citizens, commanded the highest praises of foreign nations, and secured immortal glory with posterity.

“In that retirement, which is his voluntary choice, may he long live to enjoy the delicious recollection of his services, the gratitude of mankind, the happy fruits of them to himself and the world which are daily increasing, and that splendid prospect of the future fortunes of his country which is opening from year to year! May his name be still a rampart, and the knowledge that he lives a bulwark against all open or secret enemies of his

country's peace! This example has been recommended to the imitation of his successors by both houses of Congress, and by the voice of the Legislatures, and of the people throughout the nation. CHAPTER
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"On this subject it might become me better to be silent, or to speak with diffidence; but as something may be expected, the occasion, I hope, will be admitted as an apology if I venture to say that, if a preference upon principle, of a free republican government, formed upon long and serious reflection, after a diligent and impartial inquiry after truth; if an attachment to the Constitution of the United States, and a conscientious determination to support it until it shall be altered by the judgment and wishes of the people, expressed in the mode prescribed in it; if a respectful attention to the Constitutions of the individual states, and a constant caution and delicacy toward the state governments; if an equal and impartial regard to the rights, interests, honor, and happiness of all the states in the Union, without preference or regard to a northern or southern, an eastern or western position, their various political opinions on unessential points, or their personal attachments; if a love of virtuous men of all parties and denominations; if a love of science and letters, and a wish to patronize every rational effort to encourage schools, colleges, universities, academies, and every institution for propagating knowledge, virtue, and religion among all classes of the people, not only for their benign influence on the happiness of life in all its stages and classes, and of society in all its forms, but as the only means of preserving our Constitution from its natural enemies, the spirit of sophistry, the spirit of party, the spirit of intrigue, the profligacy of corruption, and the pestilence of foreign influence, which is the angel of destruction to elective govern-

CHAPTER
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arded my all, and never been deceived ; if elevated ideas of the high destinies of this country, and of my own duties towards it, founded on a knowledge of the moral principles and intellectual improvements of the people, deeply engraven on my mind in early life, and not obscured, but exalted by experience and age ; and with humble reverence I feel it to be my duty to add, if a veneration for the religion of a people who profess and call themselves Christians, and a fixed resolution to consider a decent respect for Christianity among the best recommendations for the public service, can enable me in any degree to comply with your wishes, it shall be my strenuous endeavor that this sagacious injunction of the two houses shall not be without effect.

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“ With this great example before me, with the sense and spirit, the faith and honor, the duty and interest of the same American people, pledged to support the Constitution of the United States, I entertain no doubt of its continuance in all its energy, and my mind is prepared, without hesitation, to lay myself under the most solemn obligations to support it to the utmost of my power.

“ And may that Being who is supreme over all, the Patron of order, the Fountain of justice, and the Protector, in all ages of the world, of virtuous liberty, continue his blessing upon this nation and its government, and give it all possible success and duration consistent with the ends of his Providence !”

This elaborate address, as we learn by a letter of Adams to his wife, was intended as “ an appeal to foreign nations and posterity,” “ so strangely used as he had been, so hated and so undefended.” Yet it seems also to have been an appeal to the present, a disavowal of the anti-Republican doctrines which had been so freely

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Adams's profession of respect and veneration for the Christian religion, though no doubt perfectly sincere on his part, had yet much the appearance of a reflection on Jefferson. That, however, was a delicate point, since Adams's own opinions, verging closely on Socinianism, might seem to many almost as objectionable as the free-thinking of which Jefferson was accused.

The allusions to Washington drew out floods of tears, rather too copiously, indeed, for the jealous temper of Adams, who seems, from the same letter already quoted, to have entertained disagreeable doubts whether some of those tears might not have been as much for his accession as for Washington's retirement.

The speech ended, the oath was energetically administered by the chief justice, and as energetically repeated by Adams. This ceremony over, the new president took his seat, but rose shortly after, bowed to all around, and retired. He was soon followed by the vice-president, not, however, without ceremonious efforts on his part to induce Washington to take the precedence. This was the last time that Jefferson and Washington ever met. As Washington followed the vice-president, the shouts were redoubled both in and out of the House. He was sumptuously entertained that same evening by the merchants and other citizens of Philadelphia, and having been the first person to pay his respects to the new president, by waiting upon him at his own house, he departed a few days after for Mount Vernon, receiving on his way every mark of attention and regard.

This homage to Washington, and the strong hold

which he still maintained on the affections of the American people, were gall and wormwood to the Aurora and the more violent Democrats; if indeed the open countenance and support which the Aurora received from Jefferson and other leaders of the Republican party, did not make them, in a certain degree at least, the endorsers of its sentiments. These sentiments were strongly expressed in an article which appeared in that paper of the 6th of March, believed to be from the pen of Dr. Michael Leib, a young member of the Pennsylvania Assembly, whose maiden speech the year before had called out from Jefferson, in a letter to Giles, warm congratulations that "honest republicanism" had made such an acquisition, and expressions of high hopes from a career which began on such elevated ground. "'Lord, now lettest thou thy servant depart in peace, for mine eyes have seen thy salvation,' was the pious ejaculation of a man who beheld a flood of happiness rushing in upon mankind. If ever there was a time which would license the reiteration of this exclamation"—so wrote this correspondent of the Aurora—"that time is now arrived, for the man who is the source of all the misfortunes of our country is this day reduced to a level with his fellow-citizens, and is no longer possessed of power to multiply evils upon the United States. If ever there was a period for rejoicing, this is the moment. Every heart in unison with the freedom and happiness of the people ought to beat high with exultation that the name of Washington from this day ceases to give a currency to political iniquity and to legalized corruption. A new era is now opening upon us—an era which promises much to the people, for public measures must now stand upon their own merits, and nefarious projects can no longer be supported by a name. When a retrospect is taken of the

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Not content with this article and others in the same strain, and provoked by Washington's formal denunciation of the forged letters which political hatred had revived and published as his, the *Aurora*, no doubt with French assistance, gave a new specimen of its spite, by reproducing the old calumny of Washington's "assassination" of Jumonville at the commencement of the war of 1753. Shortly after these attacks on Washington, the editor and publisher of the *Aurora*, having paid a visit with a party of friends to the frigate *United States*, then on the stocks at Philadelphia, and being recognized by the son of the contractor, received at his hands a very severe beating, which many thought was no more than he deserved. Even the moderate Webster had remarked in his *Minerva*, that however such libels on Washington might be tolerated in Philadelphia, their publisher would hardly be able to visit New England without danger of a coat of tar and feathers. And, indeed, Bache found it necessary to appease the public clamor against him by calling attention to the fact that the article above quoted was not written by him, but came from a correspondent.

While thus furious against Washington, the *Aurora* conformed to the policy of the Republican leaders, and to the signal thrown out by Jefferson in his inaugural address, by treating the new president with great court-

easy. It found in his speech much to admire; and expressed great satisfaction that neither he nor Jefferson had been "tricked out of their election" by the "vile and detestable artifices" of Hamilton.

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However well pleased the new president might be with these signs of relaxation on the part of the opposition, he was by no means inclined to separate himself from those who had supported Washington's administration, and to whom he was indebted for the success of his mission. Wolcott certainly, and probably also the other cabinet officers, had tendered their resignations; but Adams had declined to accept them, and the cabinet remained as Washington left it. At the same time, Adams was well disposed to avail himself of the aid of the leaders of the opposition in meeting the crisis with respect to France which was now evidently approaching. Pinckney's despatches were still behind-hand, but rumors had arrived that the Directory had refused to receive him, and the president already entertained the idea of another and a more solemn mission. Indeed, the same thing was suggested to him the very morning after his inauguration by Ames and Tracy, acting on the part of Hamilton and his special friends. Adams had thought of employing Jefferson on this mission; but the doubts recurred which Washington had formerly entertained in Adams's own case, if, being vice-president, he could properly accept it. He waited on Jefferson, told him as much, and mentioned Madison as a proper envoy, to be joined by a colleague or two. As Madison had constantly refused all appointments under Washington's administration, Jefferson gave no encouragement that he would accept; indeed, it is stated that Madison positively refused. But, before this refusal, Adams had encountered such opposition from Wolcott, the only mem-

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This was the end, for the present at least, of all consultations between Adams and Jefferson as to public affairs. Pinckney's despatches arrived a few days after; and the very different views taken by the president and the vice-president as to the conduct of the French Directory, and the policy to be adopted, made any co-operation between them impossible.

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 Dec. 9. It appeared from these despatches that, the next day after Pinckney's arrival, he and Monroe had waited together on De la Croix, the French minister of Foreign Affairs, agreeably to an intimation previously given to Monroe, and had delivered Pinckney his letters of credence, and Monroe his letters of recall. The minister received them with great stiffness; but, relaxing a little, promised to lay these documents before the Directory, and to send Pinckney and his secretary "letters of hospitality," without which no stranger could remain at Paris. Pinckney's letter of credence declared him to be sent "to maintain that good understanding which, from the commencement of the alliance, had subsisted between the two nations, and to efface unfounded impressions, banish suspicions, and restore that cordiality which was at once the evidence and pledge of a friendly union."

Dec. 14 Three days after, De la Croix, without taking any further notice of Pinckney, sent to Monroe a written notification that the Directory would not receive another minister from the United States till after that redress of grievances which they had a right to expect. Yet not

withstanding this break with the American government there might still subsist between the French republic and the American "people" "the affection founded upon former benefits and reciprocal interests—an affection," so the note concluded, "which you yourself have taken a pleasure in cultivating by every means in your power."

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The next morning Pinckney wrote to De la Croix, to know if it were the wish of the Directory that he should quit the territories of the republic immediately, or whether he might remain till he heard from America.

Dec. 13.

At the same time he expressed his regret at the determination of the Directory—for the knowledge of which, as he had received notice of it himself, he acknowledged his indebtedness to the politeness of Mr. Monroe, who had not even been asked to make the communication.

To Pinckney's private secretary, by whose hand this note was sent, De la Croix stated that, since the recall of Monroe, the Directory knew no American minister. As to Pinckney's going or staying, he would obtain orders from the Directory, and then send an answer.

Dec. 15

A secretary of De la Croix's informed Pinckney, two or three days after, that, as the Directory did not intend to acknowledge him as minister, and did not mean to give him leave to stay, he would fall under the general law forbidding strangers to reside at Paris without special permission; but upon Pinckney's suggesting that his baggage had not yet arrived from Bordeaux, and desiring to be informed whether he might wait for it, the secretary promised that the Directory should be consulted. The answer he said would probably be given through the minister of police. But to this Pinckney decidedly objected. He insisted upon his diplomatic character made known to the French government by his letters of credence delivered to and received by their Secretary

CHAPTER of State; and that though ordered to quit the French
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Dec. 26. When Pinckney sent his secretary again to De la Croix, he disavowed the promise made by his messenger to consult the Directory; expressed great surprise that Pinckney was not satisfied; and intimated that, if he did not depart soon, the minister of police would be informed of the fact. He declined however to give any order in writing for Pinckney's departure, who resolved to remain till his passports were sent, or some other unequivocal step were taken.

While Pinckney was thus treated with studied neglect and insult, the facile Monroe was made to figure in a new scene—an epilogue fitly corresponding to the prologue of his fraternal reception. His recall had wiped away all the temporary suspicions against him, and had satisfied the Directory that he really was, what he had ever professed to be, enthusiastically devoted to France. It was hardly, however, as a personal compliment to Monroe that the present scene was got up, but rather as a direct insult to the American government and their new minister, and as a signal thrown out to the French party in the United States. Honored with a formal reception by the Directory to present his letters of recall and to take his leave, Monroe struck an agreeable note by warmly acknowledging "the important services rendered by France to America." He congratulated the republic on her victories, and on "the dawn of prosperity under the auspices of a wise and excellent Con

stitution ;" expressing his earnest wishes for that "close union and perfect harmony" between France and America, the promotion of which had been his sole object in accepting the mission, and, since his acceptance of it, the object of his "utmost exertions."

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Monroe had been so unfortunate as to have fallen under the displeasure of Washington, from whom he had derived his appointment; but for this he found compensation in the approval and applause of Barras, president of the Directory. "Mr Minister Plenipotentiary of the United States of America"—such was the reply of Barras—"in presenting this day to the Executive Directory your letter of recall, you offer a very strange spectacle to Europe. Rich in her freedom, surrounded by the train of her victories, strong in the esteem of her allies, France will not stoop to calculate the consequences of the condescension of the American government to the wishes of its ancient tyrants. The French republic expects, however, that the successors of Columbus, Raleigh, and Penn, always proud of their liberty, will never forget that they owe it to France. They will weigh in their wisdom the magnanimous friendship of the French people with the crafty caresses of perfidious men, who meditate to bring them again under their former yoke. Assure the good people of America, Mr. Minister, that, like them, we admire liberty; that they will always possess our esteem, and find in the French people that republican generosity which knows how to grant peace as well as how to cause its sovereignty to be respected. As for you, Mr. Minister Plenipotentiary, you have ever battled for principles; you have known the true interest of your country. Depart with our regret We restore in you a representative to America; we preserve the

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CHAPTER X. remembrance of a citizen whose personal qualities did honor to that title."

1797. While Monroe was dismissed in these flattering terms, the position of Pinckney was uncomfortable enough. The insolence of the French republic grew with its victories. While Hoche was preparing to invade Ireland, where the United Irishmen were ready to join him, Bonaparte in Italy was overwhelming the Austrians with repeated defeats. Thirteen foreign ministers had been already sent off. The republic of Genoa had been obliged to renounce its neutrality, and to purchase pardon for having attempted to preserve it by the payment of nearly a million of dollars. Talleyrand, late a refugee in America, but recently returned to France, had told the Directory, so Pinckney was informed, that the United States were of no greater consequence and need be treated with no greater ceremony than Genoa. News having reached Paris of Bonaparte's great victory at Rivoli, securing, by the repulse of Alvinzi, the surrender of Mantua and the possession of all Northern Italy; and Washington's speech at the opening of the late session of Congress, having also arrived, together with the answer of the Senate; De la Croix, in the name of the Directory, notified Pinckney that, having already resided in Paris nearly two months without special permission, he had become amenable to the law. Having thus obtained that dismissal in writing which he deemed essential, Pinckney wrote the next day for passports, and having
- Jan. 25. obtained them, speedily departed for Holland.
- Feb. 3.

Meanwhile the French cruisers were busily employed in giving new proofs of that "republican generosity" of which Barras had boasted in his farewell to Monroe. Constant captures were made of American vessels, on the ground of having enemy's property on board. When

carried into France the validity of these prizes was determined, in the first instance, by a new set of local tribunals lately erected, and principally composed of mercantile men, many of whom were themselves interested in privateers, and who made it a point to condemn, on some pretext or other, almost every vessel brought in. If an appeal were taken to the High Court of Cassation, the law officer of the Directory was authorized to refer the whole case to the minister of justice, in order that the opinion of the government might be taken. Thus the final decision depended, not upon any treaty provisions or established rules of international law, nor upon any principles of justice or equity, but upon the policy of the government for the time being. Pretenses, indeed, had been lately set up sufficient to insure the condemnation of every American vessel. An old ante-Revolutionary ordinance authorized French ships of war to arrest and bring in as pirates all vessels not having a *role d'equipage*, that is, articles containing a list of the crew, signed by the seamen, and countersigned by some public officer. But as no such counter-signature was required by the American law, no American vessel had it. Another of these old ordinances required, as a necessary proof of neutrality, a national sea-letter, a document little known in America, and with which vessels were never provided except when bound upon some new voyage among barbarous nations. The treaty between France and the United States had, indeed, specified the form of a passport to serve in time of war as proof of the nationality of French and American vessels; but to passports in that form it was now objected, that as the treaty had been set aside, the Americans must conform to the standing French law above referred to. Merlin, minister of justice, the same who, as president of the Conven-

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tion, had given to Monroe the fraternal embrace, and who was believed to be himself largely interested as a secret partner in privateers, wrote a treatise, of which the object was to show that the want of a sea-letter was good ground of capture. What was most mortifying of all, several of the privateers by which the most important captures were made had been fitted out and were commanded by Americans, sharers in the enthusiasm of citizens Monroe and Barney for the French republic, and who, in their eagerness to punish and plunder the enemies of France, were constantly stimulating the Directory to new extravagances and new decrees. The French consuls at Malaga and Cadiz, who exercised the authority of courts of admiralty, and the special agents of the Directory in the West Indies, outdid even the domestic tribunals. Of these vessels thus condemned, the crews were placed in confinement, and treated with all the harshness of prisoners of war.

Mar 25.

Upon the receipt of Pinckney's despatches, a proclamation was immediately issued convening a special session of Congress. The outrages and insults of the French Directory were not without their effect upon public opinion. The Aurora, and the more zealous partisans of France, still labored to throw all the blame of the French captures, and of the insults to Pinckney and the American government, on Jay's treaty; but among the more moderate and rational part of the community enthusiastic partiality for France began to decline. It could not but have a certain effect upon the merchants that, almost simultaneously with the increase of French captures, commenced the issue, by the commissioners under Jay's treaty, of decrees of compensation for former British captures. The French and American flags intertwined, which, cut in tin, had ornamented for three years the

coffee-rooms in New York where the merchants were accustomed to assemble, after having been the occasion of several quarrels, were now finally removed by a formal vote of the proprietors.

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This change of sentiment was perceptible, also, in the congressional election going on in Virginia, as well as in the state election of Massachusetts. Induced by increasing age and waning popularity, Samuel Adams had declined a re-election as governor, and Increase Sumner, the candidate of the Federalists, was elected by a decided majority. The opposition vote was divided between Gill, the late lieutenant governor, and James Sullivan, the attorney general, a brother of the late General Sullivan, of New Hampshire, one of the few New England men of distinguished talents and social eminence who arranged themselves on the so-called Republican side.

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Nor was the cause of the opposition much aided by the appearance in print just at this moment of Jefferson's famous letter to Mazzei, of which that gentleman had published an Italian translation in a newspaper at Florence, whence the *Moniteur*, the official paper of the French government, had given a version in French, as proof that the views of the Directory were shared by some of the most virtuous and enlightened citizens of America, and as affording ground to hope that the late vigorous proceedings of the French government might give rise to discussions leading to a triumph of "the party of good Republicans, the friends of France." This letter to Mazzei, the material parts of which there has been already occasion to quote, amounted, in fact, to a general endorsement, under Jefferson's own hand, of all the charges against Washington and his administration, lately urged in the *Aurora*, *Argus*, *Chronicle*, and other Democratic organs; and its publication brought to a

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final end the hitherto friendly, though of late somewhat ceremonious intercourse between Washington and Jefferson. Professions of friendship to his face, and secret aspersions behind his back, were what Washington could not endure. It has even been reported and extensively believed—though when this report, at the end of some twenty-seven years, finally got into print, Jefferson, in a letter to Mr. Van Buren (June 29, 1824,) most strenuously denied it—that the publication of the letter to Mazzei drew out from Washington a very sharp rebuke, and from Jefferson a humble and submissive apology; letters, so it was alleged, which disappeared mysteriously from among Washington's papers by the supposed agency of Tobias Lear, his private secretary, with whom Jefferson appears to have maintained a confidential intercourse, and to whom he gave a foreign diplomatic appointment shortly after his accession to the presidency. Even apart from Jefferson's positive denial, the evidence of the above story is wholly insufficient; yet Jefferson's attempt, in the letter in which that denial was made, to show that the letter to Mazzei contained no allusions to Washington; that the reference to "the Samsons in the field and the Solomons in the council, whose heads had been shorn by the harlot England," was meant for the Cincinnati generally; and that Washington must have perfectly understood that those phrases could not have any application to himself, must be pronounced a palpable after-thought. Such was not Jefferson's opinion at the time of the publication; for, in a cotemporaneous letter to Madison, he gave as reasons for his entire silence in public as to the Mazzei letter, that he could not deny it to be his, because, though badly translated, it was his in substance, while to avow it, so the letter continued, "would render proofs of the whole necessary, and draw

Aug. 3.

me at length into a publication of all, even the secret transactions of the administration while I was of it, and embroil me personally with every member of the executive, with the judiciary, and others still ;" nor could it be avowed without bringing on, such is Jefferson's express statement, " a personal difference between General Washington and myself, which nothing before the publication of this letter had ever done. It would embroil me, also, with all those with whom his character is still popular, that is to say, nine-tenths of the people of the United States." Had it been only the Cincinnati who were aimed at—a subterfuge not then thought of—it could hardly have been necessary for Jefferson to have labored so hard as he did to convince Madison that it could not justly be inferred from his silence that he was afraid to avow the general sentiments of the letter.

The Directory had signified their disgust at the failure of Jefferson to be elected president by the issue, so soon as that information had been received, of a decree against American commerce, purporting to define the authority granted to the French cruisers by the decree of July 2, 1796. By this decree which reached the United States just before the meeting of Congress, the treaty with America was declared to be so far modified as to leave American vessels and their cargoes liable to capture for any cause recognized as lawful ground of capture by the British treaty. By an additional and most extraordinary provision, any Americans found serving on board hostile armed vessels were to be treated as pirates, even although they might plead compulsion in excuse. In other words, American citizens impressed by the British were made liable to be hanged by the French. Violent as the Democratic papers were, and justly enough too, against British impressment, they

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had not a word to say against this most extraordinary French offset to that practice. This decree, in its practical application, proved much more fatal to American commerce than might have been supposed from its terms, it being construed by the French tribunals into a justification of the capture of American vessels for not having a *role d'équipage*. "It was intended" so, some time after its issue, wrote Barlow to his brother-in-law Baldwin, "to be little short of a declaration of war." "The government here," such was the statement of this recreant American, "was determined to fleece you to a sufficient degree, to bring you to your feeling in the only nerve in which your sensibility lay, which was your pecuniary interest."

The idea, indeed, of a war with France was far from being agreeable to anybody. Though, among the more reflecting part of the community, enthusiasm in her favor had greatly subsided, fear and dread had replaced it. France at this time was terrible alike to her friends and her enemies. The so-called patriotic or Republican party in Holland, having called in the French to help in overturning the old government, had become their submissive tools, compelled to register their edicts, and to find them money whenever called upon. Spain, since her alliance with France, was hardly more independent. Both Spain and Holland, as appeared from the papers laid before Congress along with Pinckney's despatches, taking their cue from France, had already begun to complain of the provisions of the British treaty on the subject of contraband and the seizure of enemy's goods in American vessels, as infractions of their rights under their treaties with the United States, of which the provisions on these subjects were similar to those of the treaty with France. In delaying to give up the posts on

the Mississippi, and in postponing the joint survey of the Florida boundary, Spain was believed to act by the instigation of the French Directory, suspected of intending to obtain for themselves a cession of Louisiana and the Floridas, as they already had done of the eastern part of Hispaniola. A French agent had lately been arrested in Kentucky, sent thither, as was believed, by Adet, to renew the former intrigue for the separation of the Western country from the American Union, and its junction with Louisiana. Implacable towards England, France had required Hamburg to break off all commerce with her; and the same demand had been extended to Bremen and to Denmark. The fate of Genoa, in being compelled to relinquish her neutrality, has already been referred to. Hoche's expedition against Ireland had failed; but Bonaparte was pressing hard upon the last remaining ally of Great Britain, and Austria, it was plain, would soon be forced to a peace. Discouraged by the bad success of her allies, Great Britain herself had for some time been attempting to negotiate. What might be the fate of the United States if, with a violent French faction in their own bosom, a general peace should be concluded in Europe, leaving the American difficulties with France unsettled, and the sister republic at liberty to send thither a fraternizing army under Hoche or Bonaparte?

How moderate were the views of the leading Federalists, is apparent from a letter of Hamilton to Wolcott, written some six weeks before the meeting of Congress, and very shortly after the arrival of Pinckney's despatches: "It has been a considerable time my wish," so reads this letter, "that a commission extraordinary should be constituted to go to France. I was particularly anxious that the first measure of the new president's administra-

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Wolcott, whose remonstrances, as we have seen, had contributed to prevent the institution of such a mission

as Hamilton wished, was hardly ready to yield to these suggestions. He was not satisfied that the government had not already done all that the occasion justified. The demands of France required, so he thought, a surrender of national independence, not to be yielded except to the most extreme necessity. "The idea," so he wrote in reply, "of a commission consisting of Mr. Madison, or any one like him, I must own to you, is one which I can never adopt without the utmost reluctance. I have no confidence in Mr. Madison; he has been a frequenter of Adet's political parties. I have just been informed that Adet has suggested the idea of sending this gentleman. We know that the French count upon the support of a party in this country, and so shameless is the faction grown, that positive proof of a devotion to French views is with many no injury to a man's popularity. If the government suffers France to dictate what description of men shall be appointed to foreign courts, our country is undone. From that moment the confidence of all the old-fashioned, honorable, and virtuous men of the interior is irrevocably lost." "I have no objection to sending a man of neutral politics, if he is a man of sincere firmness and integrity. General Pinckney is of this description. If a commission is generally preferred, it is a point, perhaps, not to be contested; but how can the commission be composed? From what was on the point of being done, I presume Mr. Cabot can not be brought forward. If a man of his principles were to be associated with Mr. Madison, either nothing would be done, or something worse than nothing. Mr. Madison would insist upon a submission to France, or would obstruct a settlement and throw the disgrace of failure upon the friends of government. The present is a moment of apparent tranquillity, but I conjecture it is a calm which forebodes a

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... The situation will undoubtedly be strong and
... and they will be treated with a tornado
... and they will be treated with a tornado
... I predict
... will afford
... and there will I fear, be
... and ene-
... has been abused and ex-

I am very much interested to respect your
 views on the subject. I am not so ignorant of the
 subject as you might think. The friends of government
 are not so much interested in it as to favor the
 cause of the people. Nothing will be done, or
 any thing will be done, in this case, what will be
 done, will be done by the friends of this city, or
 by the friends of the cause. General Pinckney
 is a friend of the cause. Mr. Murray, to ren-
 der the cause more popular, the consent of France to
 the cause of the people. Is a direct mission
 to the cause. It is to be a member in your
 cause.

... of government should
 ... officers, as desirous of
 ... because I should consider
 ... are desperate. If the
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"With this conduct of the French government, it will be proper to take into view the public audience given to the late minister of the United States on his taking leave of the Executive Directory. The speech of the president discloses sentiments more alarming than the refusal of a minister, because more dangerous to our independence and union, and, at the same time, studiously marked with indignities toward the government of the United States. It evinces a disposition to separate the people from the government, to persuade the people that they have different affections, principles, and interests from those of their fellow-citizens, whom they themselves have chosen to manage their common concerns, and thus to produce divisions fatal to our peace. Such attempts ought to be repelled with a decision which shall convince France and

CHAPTER X. tion should have been that ; but it has not so happened.
1797. I still continue to wish earnestly that the same measure may go into effect, and that the meeting of the Senate may be accelerated for that purpose. Without opening a new channel of negotiation, it seems to me the door of accommodation is shut, and rupture will follow if not prevented by a general peace. Who, indeed, can be certain that a general pacification of Europe may not leave us alone to receive the law from France ? Will it be wise to omit anything to parry, if possible, these great risks ? But the Directory have declared that they will not receive a minister till their grievances shall have been redressed. This can hardly mean more than that they will not receive a resident minister. It cannot mean that they will not hear an extraordinary messenger, who may even be sent to know what will satisfy. But suppose they do. It will still be well to convince the people that the government has done all in its power, and that the Directory are unreasonable. But the enemies of the government call for the measure. To me, this is a very strong reason for pursuing it. It will meet them on their own ground, and disarm them of the plea that something has been omitted. I ought, my good friend, to apprise you, for you may learn it from no other, that a suspicion begins to dawn among the friends of the government that the actual administration (ministers) is not averse from a war with France. How very important to obviate this. As in the case of England, so now, my opinion is to exhaust the expedient of negotiation, and, at the same time, to prepare vigorously for the worst. This is sound policy. Any omission or deficiency either way will be a great error."

Wolcott, whose remonstrances, as we have seen, had contributed to prevent the institution of such a mission

as Hamilton wished, was hardly ready to yield to these suggestions. He was not satisfied that the government had not already done all that the occasion justified. The demands of France required, so he thought, a surrender of national independence, not to be yielded except to the most extreme necessity. "The idea," so he wrote in reply, "of a commission consisting of Mr. Madison, or any one like him, I must own to you, is one which I can never adopt without the utmost reluctance. I have no confidence in Mr. Madison; he has been a frequenter of Adet's political parties. I have just been informed that Adet has suggested the idea of sending this gentleman. We know that the French count upon the support of a party in this country, and so shameless is the faction grown, that positive proof of a devotion to French views is with many no injury to a man's popularity. If the government suffers France to dictate what description of men shall be appointed to foreign courts, our country is undone. From that moment the confidence of all the old-fashioned, honorable, and virtuous men of the interior is irrevocably lost." "I have no objection to sending a man of neutral politics, if he is a man of sincere firmness and integrity. General Pinckney is of this description. If a commission is generally preferred, it is a point, perhaps, not to be contested; but how can the commission be composed? From what was on the point of being done, I presume Mr. Cabot can not be brought forward. If a man of his principles were to be associated with Mr. Madison, either nothing would be done, or something worse than nothing. Mr. Madison would insist upon a submission to France, or would obstruct a settlement and throw the disgrace of failure upon the friends of government. The present is a moment of apparent tranquillity, but I conjecture it is a calm which forebodes a

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hurricane. The executive will either find a strong and steady gale from one point, or be assailed with a tornado which will throw every thing into confusion. I predict that no treaty, no compromise, no concession will afford security. Revenue is essential, and there will, I fear, be insuperable objections started by the friends and enemies of government. Credit has been abused and exhausted in senseless speculations.

“You know that I am accustomed to respect your opinions, and, at any rate, I am not so ignorant of the extent of your influence with the friends of government as not to be sensible that if you are known to favor the sending of a commission, either nothing will be done, or your opinion will prevail. In this case, what will be the objection of sending Mr. Ingersoll of this city, or some such character, to be united with General Pinckney and John Quincy Adams, or with Mr. Murray, to rendezvous at Amsterdam until the consent of France to renew negotiations can be obtained? Is a direct mission to France, of which Madison is to be a member, in your view indispensable?”

“I should be sorry if the friends of government should consider me, or any of the public officers, as desirous of producing a war with France, because I should consider this as evidence that our affairs are desperate. If the public pulse does not beat higher than that of government, all is over. So far as individual characters are affected, public opinion is of no consequence; but the public opinion in regard to measures is of the utmost consequence. There ought to be a zeal for strenuous measures, and this zeal ought to be an engine in the hands of the executive for preserving peace. I think I can assure you that the movements of our political machine can not be adjusted to a minute scale, and that if

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the world that we are not a degraded people, humiliated under a colonial spirit of fear and sense of inferiority, fitted to be the miserable instruments of foreign influence, and regardless of national honor, character, and interest."

Yet notwithstanding these injuries, a desire was expressed, in which Congress and the people were presumed to concur, to preserve peace and friendship with all nations; and in the belief that neither the honor nor the interest of the United States absolutely forbade the repetition of advances to France, the intention was stated to send thither a new mission. At the same time the president pressed upon Congress the creation of a navy, as, "next to the militia, the natural defense of the United States;" the fortification of harbors; the passage of laws authorizing, under proper regulations, the arming of merchant vessels in their own defense—a practice hitherto not permitted, except in case of vessels bound to the East Indies. It was also recommended to enact severe punishments against the "unnatural and iniquitous practices" of building privateers in the United States to cruise against American commerce, and against the serving of American citizens on board of such privateers.

"For myself," the speech concluded, "having never been indifferent to what concerned the interest of my country; devoted the best part of my life to obtain and support its independence; and having constantly witnessed the patriotism, fidelity, and perseverance of my fellow-citizens on the most trying occasions, it is not for me to hesitate, or to abandon a cause in which my heart has been so long engaged.

"Convinced that the conduct of the government has been just and impartial to foreign nations; that those internal regulations which have been established by law for the preservation of peace are in their nature proper,

and that they have been fairly executed, nothing will ever be done by me to impair the national engagements; to innovate upon principles which have been so deliberately and uprightly established; or to surrender in any manner the rights of the government. To enable me to maintain this declaration, I rely, under God, with entire confidence on the firm and enlightened support of the national Legislature, and upon the virtue and patriotism of my fellow-citizens."

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This declaration of fixed purpose to persevere in the policy of the late administration dashed at once the hopes of the opposition of separating the new president from the Federal party; and forthwith the *Aurora*, lately so full of compliments, commenced to assail him as "president by three votes."

The Senate found no difficulty in agreeing to an answer, which, on the whole, notwithstanding some soft sentences, was fully responsive to the speech. A motion to strike out a clause of it, declaring the Senate's perfect union with the president, was lost by the decisive vote of eleven to sixteen, and vice-president Jefferson thus found himself obliged to put his signature to a document to which his own sentiments by no means corresponded. The arrival of additional senators increased the Federal majority by two or three votes. Even the waverers in the House did not escape the influence of the president's firm and decided tone, and the answer, as originally reported, echoed back the sentiments of the speech with tolerable distinctness. This, however, was a tone in which the opposition did not desire to speak; and Nicholas moved a number of amendments, of which the object was to avoid any express approval of the policy hitherto pursued by the government, or the use of any strong expressions, such as might increase the anger of

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the offended Directory. One of these amendments contained a suggestion that an offer should be made to place France, as to contraband and enemies' goods, upon the same ground conceded to Great Britain in the late treaty, and the expression of a hope that this offer might prove satisfactory.

Those same gentlemen of the opposition who, twelve months before, in arguing for the rejection of Jay's treaty, had spoken so lightly of a war with Great Britain, seemed now to be exceedingly impressed with the calamities which must attend a war with France. Sensitive as they had been to injury or insult from Great Britain, toward France they exhibited a most saint-like patience. Nicholas, so he said, felt the insult to Pinckney; but he thought it very necessary to get rid of that irritation which injury produces, and to proceed in the most calm and dispassionate manner. He argued at length to show that the insult to Pinckney was not so great after all; that the real causes of his rejection were that his letters of credence made no special mention of the complaints recently urged by the French, and his being invested with no extraordinary powers to negotiate on that subject. "It might, perhaps, be the opinion of some that he was improperly influenced by party zeal in favor of the French—a zeal which had been blazoned forth as existing in an immoderate degree in this country. But where was the proof of this charge? For his own part, he had no intercourse with the French but of the commonest kind. On his first coming into this House the French were embroiled with all their neighbors, who were endeavoring to tear them to pieces. Knowing what had been the situation of this country when engaged in a similar cause, he was anxious for their success. And was there not reason for anxiety

when a nation, contending for the right of self-government, was thus attacked? especially since it was well known that if the powers engaged against France had proved successful, this country would have been their next object. Had they not the strongest proof, in the declaration of one of the British colonial governors, that it was the intention of England to declare war against America, in case of the successful termination of the war against France? He would mention another reason for his sensibility in favor of the French cause, and that was because he found so much indifference to it in this part of the Union. He could not tell how it was that a disposition unfavorable to republicanism had arisen here. He shuddered for his country when he found such a disposition prevailing in any part of it; and it was to counteract this disposition that he opposed a contrary zeal, though he was not conscious of having been over-zealous."

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While allowing all due weight to this defence against the charge of belonging to a French faction, we ought, at the same time, in justice to the Federalists, to recollect the grounds on which Nicholas and his friends had maintained the existence, in the United States, of an English anti-Republican faction, controlling, as they alleged, the policy of the government. The slightest display of moderation toward Great Britain had sufficed with them as foundation for the charge of being under British influence. To have opposed Madison's resolutions for discriminations against British commerce—to have been in favor of Jay's treaty, were, in their eyes, proofs entirely sufficient to establish this imputation. But if British influence could thus be proved, was not the argument equally good, and ten times as strong, for the existence of a French influence, especially against a man like Nicholas, who proceeded to argue, in the con-

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clusion of his speech, in the very track of Adet and the French Directory, that, by ratifying Jay's treaty, the United States had abandoned the position of neutrality, and had given to France just cause of complaint?

In reply to Nicholas, Smith, of South Carolina, maintained "that the insult to Pinckney was plainly a studied one. The French government were resolved to use this country as an instrument for ruining the commerce of Great Britain—an object on which they had set their hearts as the only means of bringing that country to terms. The French were attempting to make the same use of all the neutral nations; and this object they hoped to accomplish here as elsewhere, by establishing among us a secret predominating influence more dangerous than invasion, because more insidious. The treaty with Great Britain was but a pretext. The Directory had been led to believe that the government and the people of the United States were at odds, and that, could they succeed in overturning the existing administration, it was in their power to demand and to obtain any terms they chose. To adopt, in this state of things, a weak, timid, hesitating address, would strengthen this belief, and invite to a perseverance in the present course of insults and injuries. He valued unanimity as much as any body. He was sensible of its peculiar importance at the present juncture. But it might be purchased at too dear a sacrifice, and he would rather have only a bare majority for the address as reported, than its unanimous adoption as it was proposed to be amended. If that was all the gentlemen on the other side proposed doing at this extraordinary session, the calling of Congress together would prove the most humiliating, the most calamitous measure ever adopted. Better, indeed, had the members remained at home, and there, in secret silence,

smothered their resentments and mourned over the dishonor of their country, than to be thus collected from all parts of the Union as fellow-witnesses to their own shame, and to the indignities offered to their country, without the power or even the spirit to resent them. A course so pregnant with humiliation he could not regard as possible, and he confidently hoped that as our country had always displayed her justice, so both sides of the House would unite to exhibit her as not inferior in fortitude and in firmness."

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Rutledge opposed the amendments, because, by undertaking to dictate the course of the new negotiation, they interfered with the rights of the executive. Griswold insisted that the substance of them was an apology for the conduct of France, and a reliance entirely on her spirit of conciliation for an adjustment of the existing differences.

Baldwin had always been in favor, so he said, of addresses as ambiguous as possible, making a decent answer to the president, but not committing the House; and it was on this ground that he based his support of the amendments. He was entirely opposed to these addresses at the commencement of a session, by which the House was prematurely committed to a special course of policy. May 23.

Otis (the successor of Ames, and a nephew of the famous James Otis, of the Stamp Act times) "agreed that, on ordinary occasions, such ambiguous addresses might be very proper. But this was not an ordinary case. What we now wanted was a new declaration of independence, not less endangered by the pretensions of the French Directory than it had been in former times by the pretensions of Lord North.

"The injuries we endured were atrocious—the capture of our vessels, depredations on the persons and prop-

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erty of our citizens, indignity offered to our minister, refusal to treat further, unless the complaints of the Directory, without exception and without explanation, should first be redressed—in other words, unless we would violate treaties, repeal statutes, and do what the Constitution would not allow vacate solemn judgments of the courts of law.

“ He regretted that old party questions had been dragged into this debate. He called upon members to forget old party differences, and to unite in defense of the rights of America. That the French had once been our friends, or because the commencement of their Revolution had been a struggle for liberty, was no reason for foregoing the assertion of our rights, or for smothering a just and dignified expression of our sensibility to insult. There was a time when he himself had been filled with enthusiasm for the French Revolution. While civil liberty appeared to be its object, he had cherished it. But that object of the Revolution he considered now to be completely achieved. The war was continued, not for liberty, but for conquest and aggrandisement; to which he did not believe that it was our interest to contribute. Though the measure of defense recommended by the president did not look necessarily to war, nor tend to produce it, as had been argued on the other side, yet, considering the policy of conduct adopted by France, and the uncertainty of negotiation, it was necessary to be ready. The Southern gentlemen would do well to bear in mind that no part of the country stood so much in need of defense as their own. A hostile invasion, bringing the seeds of revolution with it, might excite there a war of the most dreadful kind—a war of slaves against their masters, thereby endangering that union of the States so dear to all, and the preservation of which,

by the creation of a national character, ought to be the great object of all." CHAPTER X.

Swanwick and Livingston, indeed most of the speakers of the opposition, were inclined to throw all the blame of the existing difficulties with France on those who had voted to sustain Jay's treaty. Livingston, of whom Goodrich, of Connecticut, wrote in a private letter that he lived at Philadelphia like a nabob, "though in the memorable era of scrip," designating thereby a late period of speculation, "he committed a fraudulent bankruptcy with others of his family and dignified line of ancestry"—ran off upon his favorite topic of impressment. Thousands of American seamen, he declared, the victims of that wrong, were now serving on board British ships. He was checked, however, by Harper, who reminded him that, as chairman of the Committee on Impressments in the last Congress, he had been able, with all his zeal, to produce evidence of only forty-two cases of impressment during the six months preceding the first of January, 1796; nor did it appear that so many as a hundred had occurred during the past year that Livingston's act for recording all such cases had been in operation. But Smith, of Maryland, came to Livingston's aid with renewed declamations on the subject of impressment, and the assertion that the recorded cases gave but a very imperfect idea of the extent to which that aggression was carried. That assertion was probably true; at the same time, it was no less true that authentic evidence had been received of the imprisonment, by the French, of not less than nine hundred American sailors, some two hundred of whom the British had relieved by exchanging them for French prisoners of war.

Giles insisted that not only the recent French spoila- May 26
tions, but also the late fall in the price of agricultural

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produce, ascribed by others to the abundant harvests in Europe, grew out of Jay's treaty, of which he declared his detestation to be unalterable.

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To all these complaints against that treaty, and to the proposal of Nicholas to place France, as to belligerent rights, on the same footing with Great Britain, Harper emphatically replied that the real ground of French dissatisfaction was not this or that article of the treaty, but any treaty, any peace with Great Britain.

It was the policy of France to use us as an instrument against England, whose naval and commercial greatness had been, for a century and upward, objects of French jealousy and hatred. Such being her policy, he never could believe that it was the intention of her rulers to drive us into a war with herself, the idea of which was so alarming to some. France had too much to lose and too little to gain by such a contest. He had observed in her councils great wickedness, but no folly; and to compel this country to become her enemy would be the height of folly. We possessed more ships and seamen than any other nation except Great Britain; and were we driven to co-operate with Great Britain, such a union would be fatal, so far as the American seas were concerned, to the interests of France and her allies. The Americans, in such a case, as the French well knew, could and would lay hold of New Orleans and the Floridas, and they might even find out the road to Mexico. The object of the French Directory was not war, but to compel us to renounce the British treaty, and to renew all our differences with Great Britain under circumstances of irritation which must speedily end in rupture. In this scheme the Directory had been encouraged by the persuasion, erroneous indeed, but favored by many appearances, that we were a weak, pusillanimous people, too much devoted to

gain to regard our honor; too careful of our property to risk it in support of our rights; too much divided to exert our strength; too distrustful of our government to defend it; too much devoted to France to repel her aggressions at the risk of quarrel; and too much exasperated against England to consent to that co-operation with her which must of necessity grow out of resistance to France. They had seen us patiently submit to the insults and outrages of three successive French ambassadors—insults and outrages, for the very least of which they would have sent out of their country, if not to the guillotine, the minister of any nation. The conduct of gentlemen on this floor had confirmed them in the erroneous persuasion of a party existing in the very bosom of our government devoted to their interests. He did not mean to charge gentlemen with acting under French influence, but he would ask if the course which they had pursued was not calculated to impress France with that belief? When she saw them making it a constant ground of opposition to measures proposed, that such measures might be hurtful or displeasing to her; when she saw them constantly supporting that course of which she was desirous; constantly opposing all she opposed, how could she but infer that they were a party devoted to her views? Knowing their number and importance, and having these apparently strong reasons for relying on their attachment, how could she help concluding that, though they might not succeed in directing the government according to her wishes, they would still be ready and able to clog its operations, and so to prevent it from adopting or pursuing any vigorous measures against her? She no doubt believed, and she had reasons for believing, nothing less, in fact, than the assurances of our late minister in that country, that she had nothing to do but

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to press hard on the government in order to lay it bound, hand and foot, at the feet of this party friendly to her, by means of which she might then govern the country. In this belief she was further confirmed by the conduct of our people, their warm partiality for her, their enthusiastic exultation in her victories, and the fond, sympathizing sorrow with which they mourned over her disasters. Mistaking the source of these generous emotions, she saw in them nothing but proofs of a slavish devotedness, such as to render us incapable of asserting our rights when it must be done at the risk of her displeasure. She did not understand that what inspired this enthusiasm was the cause of liberty in which she was thought to be struggling, and that, should she abandon the principles which she professed, these same generous well-wishers would be among the firmest of her opponents. Supposing resentment against England to be far more deeply rooted, more prevalent, and more permanent than it really was, she relied upon that to prevent any co-operation between us and the British, however it might be recommended by policy or even required by necessity. She was confirmed in all these delusions by the conduct, the speeches, the writings of persons in this country, both our citizens and hers; by the information of some of her own citizens, who, after a limited residence here, had carried home with them erroneous opinions, such as foreigners generally form about countries which they visit; and it was to be feared, by the behavior, too, of some of our own citizens abroad, who, forgetting the trust reposed in them and the situations in which they were placed, had allowed themselves to persevere in a course of conversation and conduct calculated to confirm France in all her unfounded and injurious impressions. Supposing the people of this country to be unwilling to oppose her, and the gov-

erument unable; imagining that we should prefer peace, with submission, to the risk of war; believing that a strong party devoted to her would hang upon the government and impede all its measures, and that, should she place us, by her aggressions, in a situation where the choice would seem to lie between a war with England and a war with her, our hatred to England, joined to the other causes above mentioned, would force us to adopt the former alternative; entertaining these views, she had taken the course she was now pursuing, the object of which was to make us renounce the treaty with England, and to enter into a quarrel with that nation; in fine, to effect by aggression and force what for four years she had attempted in vain by a course of intrigues and insidious policy.

“Such being her objects, could she be induced to renounce them by trifling concessions of this, that, or the other article of a treaty, this, that, or the other advantage in trade? To suppose that she was to be thus satisfied seemed a delusion equally unaccountable and fatal. It seemed an unaccountable and fatal delusion, that could render gentlemen blind to the projects of France—to the Herculean strides of her overwhelming ambition, which so evidently aimed at nothing less than universal empire or universal influence; blind to her having fixed on our country as one instrument for the accomplishment of her plans. It was against this dangerous delusion that he wished to warn the House and the nation. They ought not to deceive themselves by the vain and fallacious expectation that the concessions suggested in the proposed amendment would satisfy the wishes or arrest the measures of France. Still, he did not dissuade from these concessions; far from it; he wished them to be offered, and in the way most likely to give weight

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to the offer. It was a bridge which he was most willing to build for the pride of France to retreat over. But what he wished to warn the House against was the resting satisfied with building the bridge, to the neglect of those measures by which France might be induced to march over it. He wished to negotiate, and he relied much on success in that way. But success in negotiation could only be secured by adopting on this floor firm language and energetic measures, such as might convince France that the opinions respecting this country on which her system was founded were wholly erroneous; that we were neither a weak, a pusillanimous, nor a divided people; that we were not disposed to barter honor for quiet, nor to save our money at the expense of our rights—measures which would convince her that we understood her projects, and were determined to oppose them with all our resources, and at the hazard of all our possessions. Unless success were secured by such support, negotiation was vain, weak, and delusive. Seeing us prepared, France, instead of attacking us, would listen to our peaceable proposals, and would accept the concessions we meant to offer. He should vote against the amendment, not because he was for war, but because he was for peace; and because he saw in this amendment, and more especially in the course to which it pointed, a means of impeding instead of promoting our pacific endeavors."

The idea thus inculcated with so much warmth and ability, that the French republic, so far from being the champion of liberty and the rights of man, was but a revival, under a new form, of the dreams of Louis XIV. about a universal empire, could not but make a profound impression on the House, contrary as that idea was to prevailing notions; nor could Gallatin, who exerted all

his sophistical art in reply, entirely neutralize the effect of Harper's speech. Yet the proposed amendment was lost only by a vote of forty-eight to fifty-two. Even some of the Federalists were afraid of making the address too pointed. Coit, of Connecticut, proposed to modify a paragraph referring to Barras's offensive speech, so as to strike out all personal reference to the director, and his motion to that effect, after some sharp debate, was carried by the casting vote of the chairman.

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Dayton, the speaker, then proposed an amendment, giving additional emphasis to the satisfaction expressed by the House at the proposed renewal of negotiations, and declaring a hope "that a mutual spirit of conciliation, and a disposition on the part of the United States to place France on grounds as favorable as other countries, would produce an accommodation compatible with our rights, honor, and engagements." The objection being taken to this amendment, that it was in substance the same as that of Nicholas, already rejected, these objectors were denounced by the opposition orators as unfriendly to peace and enemies of France. Dayton, alluding to Harper's speech, deprecated the idea of arraigning the French republic like a criminal at the bar of the House, charged not only with acts against the interests and rights of the United States, but with crimes said to have been committed against the different nations of Europe. He was willing to express a becoming spirit of resentment, but objected to employing the rage of a madman. It was not necessary to crouch to any nation, but he wished the House to act as if they wished for peace, not to stand in the position of gladiators and to sound the trumpet of defiance. In the course of this debate, some very sharp words passed between Gallatin and Smith of South Carolina. Gallatin declared himself unable to believe

CHAPTER that Smith was really desirous of peace, and Smith, in
X. his turn, could not believe that Gallatin, even if the
1797. terms it was now proposed to offer should be rejected, would be ready to go to war.

By the help of some waverers, Dayton's amendment, after some modifications, was carried in committee, fifty-two to forty-seven. But the House, before agreeing to
June 2. it, modified it still further by adding the expression of an expectation that France would be ready to make compensation for any violation she may have committed of American neutral rights.

What might be considered as the test question of the strength of parties was an effort made by the opposition to strike out that clause of the address approving the policy of the government as "just and impartial to foreign nations," and pledging the House to support it. This motion was lost, forty-five to fifty-three; after which the address, having been debated for two weeks, was finally agreed to, sixty-two to thirty-six.

June 3. Upon the usual motion that the House wait upon the president with the address, Matthew Lyon, a new member from the western district of Vermont, took occasion to make a display of his special democracy. An Irishman by birth, Lyon, then very young, had been brought to New York, some years previous to the breaking out of the Revolutionary war, as a redemptioner, and being sold to pay his passage, had been carried by his master to the new settlements in Vermont, of which, after serving out his time, he became a citizen. During the British invasion under Sir Guy Carleton in 1776, he had acted as lieutenant of a company of militia stationed to guard an advanced post on Lake Champlain. Sent to headquarters to report the abandonment of this post, Lyon had been treated with great indignity, pronounced

a coward, and placed under a guard; and, with the other officers of the detachment, had been cashiered on a charge of cowardice and desertion, or, rather, of persuading the men to desert as an excuse for abandoning the post. But he always insisted that he had opposed the course taken by the other officers; and it is certain that, notwithstanding this previous disgrace, he served afterward, for a short time, during Burgoyne's invasion, as a commissary in the army. Being a man of energy and ingenuity, subsequently to the peace he had established iron works and other manufactures near the foot of Lake Champlain, had acquired property, had become a colonel of militia, and had married a daughter of Governor Chittenden, who, notwithstanding his official dignity, continued, according to the simple state of manners prevalent in Vermont, to follow his old vocation of a farmer and tavern-keeper. Self-conceited and impetuous, with the characteristic faults as well as virtues of his countrymen, Lyon entered with great zeal into politics. To advocate ultra Democratic views, he established a newspaper at Castleton, entitled "Scourge of Aristocracy and Depository of Important Political Truth," which he edited himself, and printed with types of his own casting, on paper manufactured also by himself, from the bark of the bass wood; and by the help of this organ, after a very warm contest, he had been elected to Congress over several competitors.

Taking the present opportunity to make his debut, after a long speech denouncing and ridiculing the practice of waiting upon the president as anti-Republican and slavish, and setting forth his own merits and services in the cause of democracy, he offered a motion that he, personally, should be excused from compliance with the standing order of the House in that respect. He had

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indeed been told—so he stated in his speech—that he might absent himself and no notice would be taken of it; but he professed great reverence for the standing rules and orders, and preferred to have express authority for his absence. This speech was not very agreeable to the rest of the opposition, over whose heads Lyon seemed disposed to exalt himself as a special Democrat. By the Federalists it was heard with contemptuous smiles. Dana, of Connecticut, declared that for his part he was by no means specially desirous of the gentleman's company. He believed that the president would as readily forego it, and he expressed a hope that the leave asked for would be unanimously granted, which it accordingly was. Such was the first introduction to the House of one who subsequently became a political martyr, and who, during a membership of several years, often displayed, especially towards the close of it, a practical good sense hardly to have been expected from such a beginning.

Notwithstanding the tone of the address, the House was but slow in taking any steps of a very decided character. The news which continued to arrive from Europe was of a kind to inspire fresh alarm. The stoppage of specie payments by the Bank of England threatened destruction to the commercial and financial power of Great Britain. The mutiny at the Nore seemed to shake the very basis of British naval ascendancy. Bonaparte had appeared under the walls of Vienna, and Austria had been compelled to make peace. The opposition were delighted with the opening prospect of the downfall of Great Britain; and they urged with greater zeal than ever the necessity of cautiously avoiding a rupture with France. The Federalists, on the other hand, watched the progress of events, not without alarm for their own country should England really succumb. The letters of King, American

ambassador at London, to his Federal friends, strongly urged the impolicy of any involvement in the European war. Even England herself, alarmed at the terrible military power called into existence by the ill-considered attempt from abroad to suppress the outbreak of Democratic enthusiasm in France, was now seeking, with increased anxiety, to negotiate a peace.

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The House, however, still adhered, though by a very small majority, to the policy set forth by the Federal leaders in the debate on the address. In a session of eight weeks, acts were passed apportioning to the states a detachment of eighty thousand militia, to be ready to march at a moment's warning; appropriating \$115,000 for the further fortification of harbors; prohibiting the exportation of arms and ammunition, and encouraging their importation; authorizing the equipment of the three frigates and their employment, together with an increased number of revenue cutters, in defending the coast. Another act subjected to a fine of \$10,000 and ten years imprisonment any citizen of the United States who might be concerned in fitting out, or be any way connected with any private armed vessel intended to cruise against nations with whom the United States were at peace, or against the vessels and property of their fellow-citizens. To meet the expenses that might be incurred, a loan of \$800,000 was authorized, and the revenue was re-enforced by an addition of eight cents per bushel to the duty on salt, and by stamp-duties of ten dollars on licenses to practice law in the courts of the United States, five dollars on certificates of naturalization, four dollars on letters patent of the United States, two dollars on copies of the same, and one dollar on charter parties and bottomry bonds. A motion to raise the duty on certificates of naturalization, which stood in the bill as re-

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perpetrated at twenty cents, to twenty dollars, brought on a lively debate as to the policy of encouraging immigration.

1797. The high duty was advocated by several Federalists as a check on the facility of acquiring the rights of citizenship. Gallatin, Swanwick, and Lyon opposed it as excessive, and it was finally fixed at the amount above mentioned. A stamp-tax, varying in amount with the value of the subject matter, was also imposed on receipts for legacies, policies of insurance, bonds, promissory notes, bank-notes, bills of exchange, protests, letters of attorney, inventories, bills of lading, and certificates of debenture. The Committee of Ways and Means, hitherto composed of one member from each State, was reduced at this session to seven members taken from the House at large, a number at which it has ever since remained.

To most of the above measures a very decided opposition was made. The equipment of the frigates was specially opposed, under the apprehension that the president might employ them as convoys to the American trade in the West Indies. The numerous French cruisers in those seas made prize of every American vessel which they met, except when those vessels had licenses granted by the French consuls, or were known to belong to zealous advocates of the French interest. Some partial protection had been obtained from convoy granted by British ships of war, but the idea of employing armed vessels of our own for that purpose was earnestly deprecated by the opposition, and even by some of the Federalists, as little less than a declaration of war against France. Gallatin admitted that depredations without number were committed in the West India seas by vessels under the French flag, but he suggested that they were chiefly by pirates, without any commissions or authority; to which it was well answered that it was hard indeed if

the frigates could not be employed to protect our vessels against pirates, for fear of giving offence to France! Giles, Macon, Gallatin, and Smith of Maryland, labored very hard, and prevailed upon the House to insert into the bill, among other restrictions, a provision that the president should not send the frigates out of the jurisdiction of the United States; but as the Senate refused to concur, this and the other restrictions were afterward struck out. The more zealous Federalists urged the immediate purchase of nine additional vessels, to be armed and equipped for purposes of convoy. Doubtful what the consequences might be of armed collision, at the discretion of individuals, the president had issued a circular to the custom houses, renewing and confirming the rule hitherto acted upon, to grant no clearances to armed vessels except such as were bound to the East Indies or the Mediterranean. The legality of this circular was called in question, and it was proposed to authorize by an express act the arming of merchant vessels in their own defense. But both these measures, the arming of merchant vessels and the additional ships of war, were defeated by the opposition, with the aid of Dayton and the waverers, on the ground that it would be better to await the results of the new mission. Varnum, in the course of this debate, declared that he could see nothing in the conduct of France like a wish to injure the citizens of the United States. He wondered that such an outcry should be raised because three or four American ships had been captured and carried into France. Smith, of Maryland, believed the merchants would submit to any loss sooner than go to war; while Swanwick boldly asserted that more captures were made in the West Indies by the British than by the French.

A bill, originating in the House, for raising an addi-

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tional corps of artillerists and engineers, failed to pass A Senate bill for a provisional army of fifteen thousand men was defeated even in that body. The opposition raised a great outcry against every thing that involved expense, on the ground that the treasury was empty ; but they also opposed, with no less zeal, every attempt to fill it, seeming to regard, as the only security for the peace of the country, the depriving the government of all means to defend it. Another bill was also brought in (designed to meet the case of such patriots as Barney), to prevent citizens of the United States from entering into the service of foreign powers, but with a clause, defining a method whereby citizens, either native or adopted, might relinquish their connection with the United States, and transfer their allegiance to a foreign power, thereby avoiding the penalties of the bill. This clause led to a curious debate on the subject of perpetual allegiance and voluntary expatriation—a question which was found to be surrounded by so many difficulties that the entire bill was finally dropped. It seemed to be going too far formally to allow citizens of the United States to abandon their own country and to make war upon it. Yet how could that be avoided, should any act on the subject of foreign service be passed, so long as the United States, in the impressment controversy with Great Britain, claimed for naturalized foreigners all the rights and immunities of native-born citizens ?

July 3.

The president, in the course of the session, transmitted papers, from which it appeared that the Spanish authorities in Louisiana were opposing serious obstacles to the survey of the southern boundary line of the United States, as provided for by the recent treaty, and that they hesitated also to deliver up the posts north of the thirty-first degree of north latitude. Various pretenses of de-

lay were urged, such as apprehension of a British invasion from Canada, to resist which these posts might be necessary, and uncertainty whether the fortifications were to be destroyed or left standing. The real reason, no doubt, was the expectation of a breach between the United States and France, which might furnish an excuse for the non-fulfillment of the treaty. The fact, indeed, came to light some years afterward, that the Baron De Carondelet, the Spanish governor of Louisiana, had even gone so far as to dispatch one Thomas Power as a secret agent to Kentucky, to renew with the old Spanish partisans in that region the intrigue for the separation of the Western country from the Union, and its erection into an independent state, in close alliance with Spain; the late disputed territory on the east bank of the Mississippi to be divided between them. Sebastian, one of the judges of the Kentucky Court of Appeals, seems have entered zealously into this new project, but his old coadjutors, with whom he communicated on the subject, Innis, judge of the Federal District Court, and George Nicholas, late district attorney, and at present attorney general of the state, thought it would be a very dangerous project, since the Western people, being secured by the Spanish treaty in the navigation of the Mississippi, had lost all inducement for such a movement. When testifying as to this matter some ten years afterward before a committee of the Kentucky Legislature, Innis gave as a reason why he and Nicholas had kept this intrigue to themselves, that as they were opposed to the Federal administration, and believed that the president kept a watchful eye over their actions, to have made any communication on the subject would have had the appearance of courting his favor. They gave as another reason for saying nothing about an intrigue from

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which they apprehended no danger, their belief that the president was disposed, on the slightest pretext, to send an army into Kentucky, which they conceived would be a grievance upon the people. There were, doubtless, other still weightier reasons, which Innis did not give: unwillingness to damage the party to which they belonged by this new proof of foreign influence, attempted and exercised over some of its leaders; and the danger of provoking an investigation which might unravel former intrigues, and which certainly would cut short the payment of any further Spanish pensions—a favor enjoyed by Sebastian at least, if not by some of the others.

Along with the papers transmitted to Congress in relation to the Spanish business was the copy of a letter from William Blount, late governor of the Territory south of the Ohio, and now one of the senators from Tennessee, addressed to a recently-appointed Indian agent among the Cherokees, by whom it had been communicated to the president. It appeared from this letter, as well as from information furnished by Liston, the new British minister, of whom explanations had been asked, that Blount was engaged in an intrigue for transferring New Orleans and the neighboring districts to the British by means of a joint expedition, Britain to furnish a naval force, and a co-operating corps of backwoodsmen and Indians to be raised on the western frontier of the United States. Desperately involved in extensive land speculations in Tennessee, and wishing to relieve himself by getting up an English company for the purchase of his lands, Blount dreaded the consequences of a retransfer to the French, a military and not a commercial nation, of the outlet of the Mississippi, a transfer expected, and indeed supposed by some to be already made. Conceiving that it would be for the interest of the Western people,

as well as for his own private benefit as a land speculator, that Louisiana should pass into the hands of the English, he relied upon his influence with the back-woods-
 men of Tennessee and with the Southern Indians, among whom he had long acted as agent, to raise the necessary force. He had engaged as his chief co-operator one Chisholm, a wild backwoodsman, well acquainted with the Spanish posts, and who had conceived against the Spanish authorities, from some collisions with them, a bitter hatred and an ardent desire of revenge, and in his letter, laid before Congress, he had sought to engage in his schemes the Indian agent to whom it was addressed.

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Upon the evidence of this letter the House voted to impeach Blount, of which they sent up notice to the Senate. The Senate thereupon required him to give security for his appearance to answer such articles as might be exhibited against him, himself in \$20,000, and two sureties in \$15,000 each, and the House having requested that, till the impeachment should be decided, he might be "sequestered from his seat," after hearing counsel in his behalf, the Senate proceeded to expel him, Tazewell only voting in the negative. Thereupon his two sureties, his brother, a member of the House, and Butler of the Senate, surrendered him into custody, and were discharged from their bond. But Blount was presently released on recognizing himself in \$1000, with two securities in \$500 each, to appear and answer to the articles, which, however, were not exhibited till the next session.

July 7.

July 9.

The Aurora strove anxiously to make out of this affair a case of the employment of "British gold" for the purpose of involving the United States in difficulties with Spain and France. But the scheme had originated, not with Great Britain, but with Blount and his associates, most of whom strongly sympathized with the politics of

CHAPTER the Aurora ; nor did it appear that the British minister
X had given to it any other countenance beyond yielding
1797 to Chisholm's earnest requests to be sent to England to
'ay the project before the British ministry, by whom it
was rejected on the very ground that it might interfere
with the neutrality of the United States.

Though expelled from the Senate, Blount by no means
lost the confidence of his constituents. On his arrival
at Knoxville, he was received there with great cere-
mony, and was presently elected to the State Senate,
of which he was chosen president.

July 18. With the proceedings against Blount terminated a
session in which party spirit had reached a sharpness
and bitterness exceeding any thing hitherto known.
Many warm repartees had been exchanged. Blount, of
the House, brother of the senator of that name, and who
had already immortalized himself by calling for the yeas
and nays on the complimentary address to Washington
at the last session, took great offense at a retort by
Thacher, of Massachusetts, which he construed into a
charge that he belonged to a French faction, in conse-
quence of which he sent Thacher a challenge. Thacher,
besides declining to receive it, read to Macon, by whose
hand it had been sent, a very pointed lecture on the folly
of dueling, which he presently sent to the newspapers by
way of offset to the publication by Blount of his letter
of challenge—a document which exhibited a good deal
too much of the backwoods bully and blackguard. No
notice, however, was taken in the House of this breach
of privilege by a challenge for words spoken in debate.

June 24. "You and I," wrote Jefferson to Edward Rutledge,
"have formerly seen warm debates and high political
passions. But gentlemen of different politics would then
speak to each other, and separate the business of the

Senate from that of society. It is not so now. Men who have been intimate all their lives cross the streets to avoid meeting, and turn their heads another way lest they should be obliged to touch their hats. This may do for young men, with whom passion is enjoyment; but it is afflicting to peaceable minds." Another letter to Burr, professedly written for the purpose of "recalling himself to the memory of," and "evincing his esteem for" that political coadjutor, sheds a strong light on the ideas entertained by the opposition; many of them, as appears from the previous part of this chapter, very mistaken ones, especially the notion that the administration was anxious to plunge the country into a war with France. "You well know," says Jefferson in his letter, "how strong a character of division had been impressed on the Senate by the British treaty. Common error, common censure, and common efforts of defense had formed the treaty majority into a common band, which feared to separate even on other subjects. Toward the close of the last Congress it had been hoped that their ties began to loosen, and their phalanx to separate a little. This hope was blasted at the very opening of the present session by the nature of the appeal which the president made to the nation, the occasion for which had confessedly sprung from the fatal British treaty. This circumstance rallied them again to their standard, and hitherto we have had pretty regular treaty votes on all questions of principle, and, indeed, I fear that so long as the same individuals remain, we shall see traces of the same division. In the House of Representatives the Republican body has also lost strength. The non-attendance of five or six of that description has left the majority very equivocal indeed. A few individuals of no fixed system at all, governed by the panic or the prowess of

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CHAPTER the moment, flap, as the breeze blows, against the Re-
X. publican or the aristocratic bodies, and give to the one
1797. or the other a preponderance entirely accidental. Hence
the dissimilar aspect of the address, and of the proceed-
ings subsequent to that. The inflammatory composition
of the speech excited sensations of resentment which had
slept under British injuries, threw the wavering into the
war scale, and produced the war address. Bonaparte's
victories and those on the Rhine, the Austrian peace,
British bankruptcy, mutiny of the seamen, and Mr.
King's exhortations to pacific measures, have cooled them
down again, and the scale of peace preponderates. The
threatening propositions, therefore, founded on the ad-
dress, are abandoned one by one, and the cry begins now
to be that we have been called together to do nothing.
The truth is, there is nothing to do, the idea of war be-
ing scouted by the events of Europe; but this only proves
that war was the object for which we were called. It
proves that the executive temper was for war, and that
the convocation of the representatives was an experi-
ment of the temper of the nation, to see if it was in uni-
son. Efforts at negotiation, indeed, were promised, but
such a promise was as difficult to withhold as easy to
render nugatory. If negotiation alone had been meant,
that might have been pursued without so much delay,
and without calling the representatives; and if strong and
earnest negotiation had been meant, the additional nom-
ination would have been of persons strongly and earnest-
ly attached to the alliance of 1778. War, then, was
intended. Whether abandoned or not, we must judge
from future indications and events, for the same secrecy
and mystery are affected to be observed by the present
which marked the former administration. I had always
hoped that the popularity of the late president being once

withdrawn from active effect, the natural feelings of the people toward liberty would restore the equilibrium between the executive and legislative departments which had been destroyed by the superior weight and effect of that popularity, and that their natural feelings of moral obligation would discountenance the ungrateful predilection of the executive in favor of Great Britain. But, unfortunately, the preceding measures had already alienated the nation who were the object of them, had excited reaction from them, and this reaction has on the minds of our citizens an effect which supplies that of the Washington popularity. The effect was sensible in some of the late congressional elections, and this it is which has lessened the Republican majority in Congress. When it will be reinforced must depend on events, and these are so incalculable that I consider the future character of our republic as in the air; indeed, its future fortune will be in the air if war is made on us by France, and if Louisiana becomes a Gallo-American colony.

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“I have been much pleased to see a dawn of change in the spirit of your state. The late elections have indicated something which, at a distance, we do not understand. However, what with the English influence in the lower, and the Patroon influence in the upper parts of your state, I presume little is to be hoped. If a prospect could be once opened upon us of the penetration of truth in the Eastern States; if the people there who are unquestionable Republicans could discover that they have been duped into the support of measures calculated to sap the very foundation of Republicanism, we might still hope for salvation, and that it would come, as of old, from the East. But will that region ever awake to the true state of things? Can the Middle, Southern, and Western States hold on till they awake? These are

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painful and doubtful questions ; and if, in assuring me of your health, you can give me a comfortable solution of them, it will relieve a mind devoted to the preservation of our republican government in the true form and spirit in which it was established, but almost oppressed with apprehensions that fraud will at length effect what force could not, and that, what with currents and counter-currents, we shall in the end be driven back to the land from which we launched twenty years ago. Indeed, my dear sir, we have been but a sturdy fish on the hook of a dexterous angler, who, letting us flounce till we have spent our force, brings us up at last."

"I am tired of the scene, and this day se'nnight shall change it for one where to tranquillity of mind may be added pursuits of private utility, since none public are admitted by the state of things."

The selection of the envoys to France had been, since the commencement of the session, a subject of great interest both in and out of the cabinet. The president, as we have seen, had been of opinion, and the same view had been taken by Hamilton, that one of the envoys ought to be selected from that party in the country regarded by the French as their especial friends. Madison had been thought of as the proper person for that purpose both by Hamilton and Adams ; but, besides his unwillingness to accept the mission, already intimated by Jefferson, the feeling in the cabinet was so strong against him that the president had early laid aside the idea of his nomination. Madison, indeed, was altogether too cautious to risk his political prospects in any such doubtful enterprise, or to come out in so turbulent a crisis from that retirement into which, with his newly-married wife, he had lately withdrawn. John Marshall, of Richmond, formerly an officer in the Revolutionary army, now a leading advo

cate at the Virginia bar, a Federalist, but a man of great moderation, was selected in Madison's place. As Pinckney was to make one of the new embassy, if the opposition were to have any representative at all, it must be the third and Northern member, two from the South having been already selected. The president proposed Gerry, of whose abilities as a compatriot in the Revolutionary struggle he entertained a high opinion, and who had recently given what must have seemed, to the president at least, pretty good proof of the soundness of his judgment, by omitting to throw either of his votes as a Massachusetts elector of president and vice-president for his friend Jefferson, lest it might endanger, as it would have done, the election of Adams. As Pickering and Wolcott in the cabinet, and a number of the most zealous Federalists out of it, were decidedly opposed to a mixed embassy, and very strenuous for three Federalists, Adams so far yielded to them as to nominate, instead of Gerry, his old associate in the diplomatic service, Francis Dana, at that time chief justice of Massachusetts. But Dana having declined the appointment on the plea of ill health, the president returned again to Gerry. Besides the general reasons against a piebald commission, some personal objections were made to Gerry as a man at once whimsical and obstinate, with whom his colleagues might on that account find it difficult to co-operate. The president, however, insisted upon him; and the nomination was accordingly made, and confirmed a day or two after Jefferson's letter to Burr. Even in the captious and suspicious judgment of Jefferson himself, the commission as thus constituted was one with which little fault could be found. In a letter to Gerry congratulating him on his appointment, and urging his acceptance of it, he declared that Gerry's nomination gave him "certain assurance

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June 2.

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that there would be a preponderance in the mission sincerely disposed to be at peace with the French government and nation.”
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The existing treaty with Prussia being about to expire, John Quincy Adams, to whom Washington had given the mission to Lisbon, but who had not yet entered on that service, was appointed minister to Berlin. This appointment, the second in order of time made by the new president, could not, however, be ascribed to paternal partiality; for Washington, while expressing the decided opinion that John Quincy Adams was the most valuable, and would prove himself to be the ablest of the American diplomatic corps, had strongly urged that merited promotion should not be withheld merely because he was the president's son. The post at Lisbon was given to Smith, of South Carolina, hitherto so conspicuous as a Federal leader in the House of Representatives. Gallatin, Nicholas, and others of the opposition had made very earnest efforts to defeat the appropriation necessary for the support of these two ministers. Opposed as they were to armies and navies, they seemed also to think a diplomatic establishment unnecessary. The consulships at Algiers and Tripoli, which possessed a certain diplomatic character, were given to O'Brien and Cathcart, two of the lately released Algerine prisoners, thus superseding Barlow, who had obtained, on Monroe's recommendation, a commission to treat with those two regencies. The consulship at Tunis was given to William Eaton, of Massachusetts, lately a captain in the United States army, and who afterward made himself very conspicuous in the affairs of that regency.

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MONROE'S RETURN. SLANDEROUS ATTACK ON HAMILTON.
ADVENTURES OF THE SPECIAL MISSION TO FRANCE.

WHILE the newly-appointed envoys to France were preparing for their departure, and shortly before the adjournment of Congress, Monroe, the recalled minister, arrived at Philadelphia. The opposition received him with open arms. He was entertained at a public dinner, at which Chief-justice M'Kean presided, Vice-president Jefferson, and a large number of the members of both houses—among others, Dayton, the speaker—being present. In warmth of applause and approval, M'Kean's speech of welcome fell only short of the eulogies to which Monroe had listened from Merlin and Barras, models whom M'Kean seemed desirous to imitate.

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By the same ship that brought Monroe came the answer of Merlin, now minister of Justice, to the complaint of the consul general of the United States of the condemnation of two American vessels on the newly-invented ground that they had no *roles d'equipage*. This answer openly avowed the policy stated by Barlow in his letter, already quoted, as that of the Directory—the plunder of private merchants, under false and frivolous pretences, as a means of compelling the government of the United States to conform to the wishes of France. “Let your government,” writes this minister of justice, who was also, at the same time, a speculator in privateers, “return to a sense of what is due to itself and its true friends, become just and grateful, and let it break the incompre-
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1797. sensible treaty which it has concluded with our most implacable enemies, and then the French republic will cease to take advantage of this treaty which favors England at its expense, and no appeals will then, I can assure you, be made to any tribunal against injustice."

- July 6.** Immediately after his arrival at Philadelphia, Monroe addressed a letter to the Department of State in curious contrast with the subdued and very urbane style of his correspondence with the French minister of Foreign Affairs. In this letter, he requested, or rather demanded, and that, too, in pretty decided terms, to be informed of the grounds of his recall, not as a matter of favor, but of right.
- July 7.** Pickering suggested, by way of reply, that the president might well be possessed of facts and information such as might justify the recall of a minister, or the dismissal of a public officer, though not such as to furnish grounds for impeachment or other legal proceedings; and that, in trusting the matter of recall or dismissal to his discretion, the Constitution never contemplated that the propriety of the exercise of that discretion in particular cases should be tested either by a formal trial or a
- July 19.** public discussion. Monroe, in his answer, taking upon himself the character of an abused and injured individual, expressed his astonishment that, after being denounced to the public, by deprivation of his office, as a person guilty of some great act of misconduct, the government, when called upon for a statement of the charge and the facts to support it, should be disposed to evade the demand, and to shrink from the inquiry. In reply to this indignant note, Pickering calmly insisted upon the right of the president to remove from office without giving any reasons for it. Communications might be received entitled to credit, but under restrictions not permitting a disclosure. To admit the principle insisted upon by Mon-

roe would be to shut the door to intelligence of the infidelity of public officers, especially of diplomatic agents in foreign countries, far removed from the immediate observation of their own government. Mere want of confidence, from whatever cause arising, furnished reason enough for recalling a minister. If he were found, on trial, to be deficient in judgment, skill, or diligence, or if circumstances inspired a reasonable doubt of his sincerity, he ought to be removed. While his official communications had a fair appearance, a diplomatic agent might hold intimate and improper correspondence on political subjects with men known to be hostile to the government he represented, and whose actions tended to its subversion. He might, from mistaken views, even go so far as to countenance and invite a conduct on the part of the nation to which he was accredited, derogatory to the dignity of his own country and injurious to its interests. But a removal from office did not necessarily imply actual misconduct; it might imply merely want of ability, or a change in the state of political affairs such as to render the substitution of another person proper. It might also happen, and such was Monroe's case, that a president just retiring from office might remove, in which case no member of the succeeding administration could undertake to assign the motives of the removal. "There is no disposition," the letter concluded, "to treat you or any other man with injustice; but the government can not, for the sake of indulging your sensibility, sacrifice a great national principle. I agree with you that the president, in using that pleasure with which the Constitution has invested him, is bound to exercise it with discretion; but I deny that he is bound on every occasion to explain and justify his conduct to the individual removed from office, which, besides other objections, would expose the

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CHAPTER XI. executive to perpetual altercations and controversies with the officers removed." Along with this official letter, as
1797. conclusive as it was sarcastic, and which has settled forever the practice of the government, Pickering sent a note in his private capacity, offering to communicate in that same capacity, if Monroe desired it, the reasons which had induced him, when officially consulted by the late president, to advise Monroe's removal, and tendering also, on behalf of the other cabinet officers, a similar communication.

Monroe could hardly have expected that any official communication would be made to him of the reasons of his removal, though the demand for it, and the idea which that demand implied, that he held his appointment independently of the executive, were sufficiently in accordance with the system on which he had acted throughout. The real object of his application was to get up some excuse for a publication on his part, without the authority or consent of the government, of the correspondence which had passed between himself, the French officials, and the Department of State. Considering the refusal of his demand as satisfying that object, he rejected with insult the very reasonable offer made by Pickering on behalf of himself and the other members of the cabinet. "I have yet to learn," he insolently wrote,
July 3. "what your pretensions are to confidence as an individual citizen, or the weight which your opinion ought to have as such, especially in the present case;" and he proceeded to arraign the late administration, including Washington, the responsible head of it, as destitute of candor, and as seeking, by every possible artifice which interest or ingenuity could suggest, to disguise the real motives of their conduct, of which the present correspondence was, in his opinion, a fresh proof. His letter.

concluded by demanding to know whether Pickering, in stating in his official letter the reasons which might justify the recall of a minister, had intended to insinuate that he, Monroe, was the tool and partisan of another country against the honor and interest of his own.

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As if to save the necessity of an answer to this question, which, considering the insolent tone of the whole letter, Pickering could hardly have given without compromising his self-respect, Monroe proceeded to make an unauthorized, irregular, and, in the delicate state in which affairs then stood, a very impudent and unjustifiable publication of his entire diplomatic correspondence; thereby putting into a permanent form authentic and unquestionable proofs of his own folly, and of the superior wisdom and prudence of the government. It was the object of this publication, of the more material parts of which a pretty full abstract has already been given, to make manifest to the public, and especially to the French-American party, that by repudiating the British treaty, and silently putting up with such breaches of the French treaty as the exigencies of the war might make convenient to that nation, the friendship of the Directory might have been and might still be preserved; and even their aid against England purchased by supplying their pecuniary necessities. That Monroe should have been willing to purchase friendship and assistance at such a price; that he should have been anxious to aid in reducing the United States to a degradation like that of Holland and Spain—a position of helpless dependence on France, did certainly expose him to the charge of having been “the tool and partisan of another country against the honor and interests of his own;” nor is it wonderful that many Federalists of that day should have sought to explain his excessive zeal in this matter by the supposition

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that, like other American residents in France, his politics had been influenced by pecuniary considerations. In fact, hints had been dropped—indeed, the charge had been openly made on the floor of Congress, and that by no less a person than Harper—that Monroe had been bribed; a circumstance which will serve to explain, and which ought also partially to excuse, the excessive acrimony of his letters to Pickering. These gross insinuations were totally baseless. The time had not yet come when American statesmen were to be purchased with money. How perfectly sincere Monroe was in his opinions is manifest throughout the whole correspondence, which no purchased tool of France—none but a man blinded by enthusiastic passion, could ever have written, and still less would have published. Nor were such views of the honor and interest of the United States, strange as they may seem at this day, at all confined to Monroe. They were shared, to a greater or less extent, by most of the leaders, and by the great mass of the opposition party, the result of two powerful co-operating passions, hatred of England and excessive admiration of the new French politics, too strong in many minds for sober judgment.

Hatred of England, which, during the progress of the Revolution, had struck so deep a root in the popular mind, had been aggravated during recent years not only by British insolence and aggression on the frontiers and the seas, but by that stern and suspicious domestic policy, the natural reaction against French excesses, by which, in Great Britain itself, all Republican tendencies and indications had been suppressed; a policy which, by driving those inclined to Republicanism into an exile more or less involuntary, had served to transfer to America, there to germinate in a fruitful soil, many roots of bitterness against the British government. Any breach

with France would lead, it was feared, to an intimate union with Great Britain, whence new support to the monarchical and aristocratic tendencies charged upon the existing administration ; a further infusion of British sentiments and institutions ; and an indefinite postponement of those happy times in which Jefferson, "the friend of the people," placed at the head of the government, was to snatch it from the grasp of monarchists and aristocrats, and to restore it to its native republican simplicity. Intimacy with Great Britain, fraught with such consequences, was to be avoided, it was thought, at almost any hazard.

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Nothing is so gratifying to the human mind as simplicity and instant completion. The idea of a short cut to liberty and equality by killing off kings and aristocrats was quite too fascinating to be easily abandoned. Though born and baptized amid horrible outrages ; though, in spite of all its paper constitutions, consisting practically in nothing more or less than the seizure of absolute political authority by a few enthusiastic and audacious individuals, exercised, indeed, in the name of the people, but constantly trampling, without scruple or hesitation, on those rights of man on which it professed to be founded ; the old despotism, in new hands, bent like that on universal dominion, but inspired with tenfold energy and ferocity ; in spite of this its real character, the French republic continued to be regarded by multitudes, both in America and elsewhere, as actually a free and democratic government erected on the ruins of an ancient tyranny, the commencement of a political millennium whence liberty, peace, and happiness were to flow forth on Europe and the world. The unscrupulous and mostly unprincipled politicians, whoever they might be, who controlled for the moment the course of French af-

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to stimulate the zeal of Muhlenburg, Clingman had dropped frequent hints that his confederate Reynolds had it in his power very seriously to injure Hamilton, with whom Reynolds, as Clingman alleged, had been deeply concerned in buying up old claims against the United States, and for that purpose had received frequent advances of money. These seeds of suspicion were scattered on fertile ground, the heads of the opposition being employed at this very time in getting up those charges against Hamilton's official character, of which Giles became the mouth-piece, and of which a full account has already been given. Nothing could have pleased them better than to have fixed upon Hamilton the charge of speculating in public securities, from which he was specially prohibited by the act constituting the Treasury Department. Muhlenburg having communicated to his friends, Venable of the House, and Monroe of the Senate, this agreeable information, they proceeded to pay a visit to Reynolds while he was yet confined in prison. He talked mysteriously about having a certain high officer very much in his power, but refused to give them any precise information till after his discharge, which was to take place in a day or two. Being discharged, he left the city or kept out of the way. In default of finding Reynolds, Muhlenburg and Monroe paid a visit to Reynolds's wife, who, in answer to their inquiries, told them that she had formerly burned, at Hamilton's request, a number of letters from him to her husband, but that Clingman still had three or four letters without signatures, written, as she believed, by Hamilton. Hamilton, so she told them, had offered to assist her in going to her friends, and had urged also the departure of her husband, in which case he promised to give him "something clever," not, as she believed, out of friendship, but

because he could tell something "that would make some of the heads of departments tremble." She stated, also, that Wadsworth, then a member of Congress from Connecticut, under whom Reynolds's father had been an officer in the Commissary Department of the Revolutionary army, had been active in her behalf, at first at her request, but, as she believed, with the knowledge and approbation of Hamilton, whose friend he professed to be. He had been at her house the day before, and having told her that two gentlemen of Congress had been at the jail to confer with her husband, had inquired if she knew what it was about. She also showed two notes in Hamilton's handwriting, both of quite recent date, expressing a desire to relieve her. After this interview with Mrs. Reynolds, Muhlenburg and Monroe hastened to Clingman, who told them that he had once met Hamilton at Reynolds's house in the night, on which occasion he appeared unwilling to be seen; that Mrs. Reynolds had told him that Hamilton had assisted her husband with money to the amount of upward of eleven hundred dollars; that Reynolds had said that Hamilton had been concerned with one Duer, a speculating clerk in the Treasury Department, who had failed, and had been dismissed in consequence; also, that Hamilton had made thirty thousand dollars by speculation, and that he, Reynolds, had it in his power to hang him, and could always get money from him when he wanted it. These statements, with many others of less importance relating to the arrest and discharge of Reynolds, were carefully committed to writing, and signed by Clingman, who also delivered to Muhlenburg and Monroe two or three brief anonymous notes said to have been addressed by Hamilton to Reynolds, but written in a disguised hand, consisting each of a line or two, and about as significant as

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the similar notes which formed so main a part of the evidence in the celebrated trial of Mr. Pickwick for breach of promise of marriage. They also made and signed memoranda—Muhlenburg of his first interviews with Clingman; Monroe and Venable of their visit to Reynolds; and Monroe and Muhlenburg of their interview with Mrs. Reynolds. Armed with these various documents, the three hastened to confront the secretary, and to demand his explanation of these suspicious appearances previous to laying the matter before the president. Hamilton at once acknowledged the anonymous notes to be his, and appointed a time for a second interview, at which Wolcott was present. He then stated to the gentlemen whose patriotic zeal had induced them to incur so much trouble, that he had been unfortunately entrapped into an amour with Mrs. Reynolds, and that her husband, whom he suspected to have been all along privy to the affair, having made a real or pretended discovery of it, had received, on his own proposition, a thousand dollars as a salve to his wounded honor. Every artifice had afterward been used by Reynolds and his wife, who pretended to be desperately in love with Hamilton, to protract the intercourse between them by playing upon Hamilton's passions and sympathies; a profitable operation on their part, since, to keep the matter quiet, and so to avoid injuring the feelings of his wife, whom, notwithstanding this amour, he tenderly loved, Hamilton was obliged to respond oftener than was convenient to his limited finances to Reynolds's applications to borrow money. The connection having finally been broken off, and Reynolds's recent applications for money refused, he appears to have turned his thoughts toward revenge, relying upon Clingman as his chief co-operator, and upon the political enemies of Hamilton as his dupes and in-

struments. All this was made perfectly apparent by a large collection of letters from Reynolds and his wife, which Hamilton produced and read to the three inquisitors. Indeed, he had not gone far with this rather delicate correspondence before the ridiculous position in which they had placed themselves as spies upon the secretary's amours flashed upon the minds of Venable and Muhlenburg, and they begged him to stop, as further explanations were quite unnecessary. Nothing, hardly, but the blindness of party hatred, could have prevented men of their ample worldly experience from suspecting, long before, the nature of the affair of which they had undertaken the investigation. Even the grim and unsophisticated Monroe, though not sharing the confusion and embarrassment of his two colleagues, joined with them, after the reading of the correspondence had been finished, in professing himself perfectly satisfied, and his regret at the impertinent intrusion into Hamilton's personal affairs of which they had unintentionally been guilty. The next day Hamilton wrote them a note, requesting copies of the papers exhibited to him; of the several statements, that is, signed respectively by Muhlenburg, by Monroe and Venable, and by Muhlenburg and Monroe, and of his own unsigned notes to Reynolds; requesting also that those notes might be detained from the parties of whom they had been originally obtained, so that it might not be in their power to make use of them for future mischief. "Considering of how abominable an attempt they have been made the instrument," so the note concluded, "I trust you will feel no scruples about this detention." Copies were accordingly furnished to Hamilton, and the originals were detained in the possession of Monroe, who declared in his answer that every thing desired by Hamilton "should be strictly complied with," an express prom-

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ise of what, indeed, without any promise, might have been expected of men making any pretensions to justice or honor—that the papers should be so disposed of as to be no longer in any danger of being used to trump up false charges against Hamilton. Yet it was these very papers which were now published in Callender's book, and along with them two others, drawn up about the same time, but of which no copies were ever furnished to Hamilton, and which can not but throw a cloud of suspicion over the parties concerned in making them—in the case of Monroe a very deep one indeed. It appeared that after their return from the visit to Hamilton above mentioned, Monroe and his two friends had signed a memorandum, in which, after stating the fact of the visit, with a brief account of Hamilton's explanations, they ambiguously added, "We left him under an impression our suspicions were removed." The other memorandum, of a still more equivocal character, signed by Monroe alone, and dated a fortnight after the first one, purported to state a conversation with Clingman, who was represented to have said that he had communicated the substance of Hamilton's explanations to Reynolds's wife, who wept immoderately, denied the imputation, and declared that her husband had confessed to her that the whole had been a fabrication got up between him and Hamilton, he having written letters and given receipts for money so as to countenance Hamilton's pretenses; and that he, Clingman, was of opinion that she was innocent, and the defense an imposition. Of the spirit in which this memorandum was made and preserved we can only judge from the circumstance that no copy of it was communicated to Hamilton, from the use ultimately made of it, and from Monroe's general conduct in the affair both before and after Callender's publication. All the pa-

pers, the two secret memoranda included, remained in Monroe's hands till his departure for France, when, according to his account, he deposited them in the hands of a friend, "a respectable character in Virginia," with whom they were said still to remain. The originals, then, were not stolen. Copies must have been furnished to Callender; and by whom? Callender declared in his pamphlet that he made the publication in revenge for the recent attacks on the patriotism and honesty of Monroe; and the statement which he gave respecting the copies furnished to Hamilton were such as could hardly have been derived except from Monroe and his associates, either at first or second hand. It would seem, then, that Callender must have been furnished with copies either by Monroe himself, or by "the respectable character in Virginia" to whom the originals had been intrusted. Monroe expressly denied any agency in the publication, or knowledge of it till after it had taken place—a denial to which additional force was given by the fact that the printing must have been finished prior to his arrival from France. It would seem, then, that the copies must have been furnished, directly or indirectly, by "the respectable character in Virginia," and it deserves to be noticed that in none of Monroe's numerous letters upon the subject is there any denial that such was the case. Who was this "respectable character"? That also is a subject upon which Monroe's letters afford no light. Hamilton appears to have suspected Jefferson, and certainly there was nobody with whom Monroe would have been more likely to make such a deposit. What a relishing tit-bit these papers would have furnished for Jefferson's Ana! Indeed, Jefferson's relations to some of Callender's subsequent publications were such as may serve to strengthen the suspicion. If, in fact, these papers had been put

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CHAPTER into Jefferson's hands, it was a very fortunate circum-
XL stance that the publication was made while Hamilton
1797. still lived to explain and refute the imputation intended
to be founded upon them.

It was not Callender's object, in publishing these papers, to show that Hamilton had been guilty of an adulterous amour. The far more aggravated charge urged against him was that, having been concerned with Reynolds in illicit speculations, he had attempted to avoid detection by forging letters and receipts falsely implicating his own chastity and that of Reynolds's wife; and this charge rested not alone on Clingman's alleged assertions and the argument of Callender, but seemed to receive a certain countenance from the two ambiguous memoranda, the one signed by Monroe and his associates, the other by Monroe alone.

Though it would have been a thing hardly to be supposed that, really believing or seriously suspecting the truth of such a charge, Venable, Monroe, and Muhlenburg had suffered the matter to rest quietly for four years or more, to be at last surreptitiously brought out in a libelous pamphlet, Hamilton still deemed it proper, immediately on the appearance of Callender's "History," to address to each of the three persons thus apparently vouched in to substantiate the charge, a separate letter, reminding them of what had passed at their interviews with him, and requesting from them declarations equivalent to those made at that time, "especially as you must be sensible," he added, "that the present appearance of the papers is contrary to the course which was understood between us to be proper, and includes a dishonorable infidelity somewhere." This infidelity he did not attribute to either of the three, yet suspicion, he remarked, must naturally fall on some agent of theirs. His atten-

tion being shortly after called to the ambiguity of expression in the memorandum signed by the three, giving an account of their interviews with Hamilton, and which he had seen for the first time in print, he wrote a second time to inquire if that memorandum were authentic, and what its intention and proper interpretation might be. Muhlenburg and Venable denied any concern in or knowledge of the publication, or that they had ever had copies of the papers. "I avoided taking copies," wrote Venable, in the true spirit of an honorable man, "because I feared that the greatest care I could exercise in keeping them safely might be defeated by some accident, and that some person or other might improperly obtain an inspection of them." Both declared that at the interview in question they had been entirely satisfied with Hamilton's explanations. In answer to Hamilton's second note in reference to the joint memorandum, Muhlenburg and Monroe, Venable having previously left Philadelphia on his return to Virginia, stated, in a joint letter, that the impression left on their minds by the interview corresponded with that which the memorandum stated them to have left on his, namely, that their suspicions were unfounded. Hamilton judged it, however, to be still necessary to demand of Monroe an explanation of the memorandum signed by him alone, the tendency of which was, and for that purpose it had been used by Callender, to countenance a suspicion that the papers exhibited by him were forgeries, in which he falsely charged himself with a breach of matrimonial duty in order to ward off a charge of official misconduct.

This demand placed Monroe in a very awkward position. He could not say that he recorded the alleged statement of Clingman because he believed or thought it might be true, since, in that case, to have confined it

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to his own private repository or to that of his "respectable friend in Virginia" would have been a scandalous dereliction of duty, wholly inconsistent with that patriotic zeal by which the original investigation purported to have been prompted. To have admitted, on the other hand, that he recorded Clingman's statement believing it to be false, and yet without any intimation on his part to that effect, would be to confess himself an accessory to an outrageous and wicked slander, reduced to writing, thus preserved, and finally published through his means, if, indeed, it had not been entirely manufactured by him. Vainly struggling to escape from this most discreditable dilemma, Monroe replied to Hamilton's demand in the following terms: "Although I was surprised at the communication given, I meant neither to give nor to imply any opinion of my own as to its contents. I simply entered the communication as I received it, reserving to myself the liberty of forming an opinion upon it at such future time as I found convenient, paying due regard to all the circumstances connected with it." Hamilton, however, was not to be put off with so poor an evasion; and after another letter, giving Monroe a second chance to explain himself, which drew out another answer, substantially the same with that just quoted, he thus expressed his opinion of Monroe's behavior. "The having any communication with Clingman after that with me; receiving from him and recording information depending on the mere veracity of a man undeniably guilty of subornation of perjury, and whom the very documents which he himself produced showed sufficiently to be the accomplice of a vindictive attempt upon me; the leaving it in a situation where it might rise up at a future and remote day to inculcate me, without the possibility, perhaps, from the lapse of time, of

establishing the refutation, was, in my opinion, in a high degree indelicate and improper. To have given or intended to give the least sanction or credit, after all that was known to you, to the mere assertion of either of the three persons, Clingman, Reynolds, or his wife, would have betrayed a disposition toward me which, if it appeared to exist, would merit epithets the severest I could apply."

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This temperate but cutting rebuke drew out from Monroe a long argumentative answer in support of the delicacy and propriety of the joint proceedings of himself and his associates, and of his own separate interview with Clingman. But the delicacy and propriety of reducing Clingman's statement to writing, in terms implying no doubt of its truth, and placing that record in a position to be used, as it actually had been, as foundation for a charge against Hamilton the most serious and derogatory, this, the very gist of the matter, was passed over without the slightest notice except what might be implied in the following concluding sentence: "Whether the imputations against you as to speculations are well or ill founded, depends upon the facts and circumstances which appear against you. If you show that they are ill founded, I shall be contented, for I have never undertaken to accuse you since our interview, nor do I now give any opinion on it, reserving to myself the liberty to form one after I see your defense, being resolved, however, so far as depends upon me, not to bar the door to free inquiry, or to the merits of the case in either view."

July 21.

In his reply to this note, Hamilton noticed Monroe's evident design to drive him to a formal and public defense against the charges of Clingman and Callender, which, from its delicate nature, must be exceedingly disagreeable. He also reminded Monroe that he had been

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- the cause, against the intent of a confidence reposed in him, of the affair assuming its present shape. "It was incumbent upon you," he added, "as a man of honesty and sensibility, to have come forward in a manner that would have shielded me completely from the unpleasant effects brought upon me by your agency. This you have not done. On the contrary, by the affected reference of this matter to a defense which I am to make, and by which you profess your opinion is to be decided, you imply that your suspicions are still alive. And as nothing appears to have shaken your original conviction but the wretched tale of Clingman which you have thought fit to record, it follows that you are pleased to attach a degree of weight to that communication which can not be accounted for on any fair principles. The result in my mind is, that you have been, and are, actuated by motives toward me malignant and dishonorable; nor can I doubt that this will be the universal opinion when the publication of the whole affair, which I am about to make, shall be seen." To this manly and direct imputation upon him as a man of honor, candor, and truth,
- July 25. Monroe made a wiffling and confused reply. He attempted, by some further explanations, to withdraw the endorsement given by his preceding letter to Clingman's statement as something which required an answer and defense; but he still found himself in the old dilemma. He did not dare to say that the statement of Clingman had made, at the time, any impression upon his mind, for if so, how explain his total silence concerning it for so many years? He was resolved not to say that he regarded it as false when made, for if so, why was it recorded and so carefully preserved? Stigmatized as he was with being a malignant and dishonorable plotter against Hamilton's reputation, with the certain prospect

before him of being exhibited as such to the public, Monroe found no other resource except the vulgar one of intimating his readiness to fight—if challenged. If Hamilton wished to make it a personal affair, he “might be more explicit, since you well know,” so this letter concluded, “if that is your disposition, what my determination is, and to which I shall firmly adhere.”

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Hamilton, in his answer, declared himself at a loss to know what could be the determination on Monroe's part so mysteriously referred to as known to him. As to making the affair a personal matter, it would, on his part, be as unworthy to seek as to shun such an issue. “It was my earnest wish,” the letter added, “to have experienced a conduct on your part such as was, in my opinion, due to me, to yourself, and to justice. Thinking as I did, on the coolest reflection, that this had not been the case, I did not hesitate to convey to you the impression which I entertained, prepared for any consequences.” As to Monroe's additional explanations, they were pronounced wholly unsatisfactory. Monroe replied that he could give no further explanations, unless called upon in a way which, for the illustration of truth, he wished to avoid, but which he was ever ready to meet. To this Hamilton answered, that, as the affair stood, if there was to be any challenge, it ought to come from Monroe. If his last note was intended as such, Hamilton's friend, Colonel Jackson, was authorized to receive any further communications in relation to it.

July 28.

July 31.

Aug. 3.

Again Monroe found himself in a very uncomfortable position. Unquestionably, according to what is called the code of honor, if there was to be a challenge, it should have come from him, distinctly charged as he was with betrayal of confidence, and behavior, in other respects, not only indelicate and improper, but malignant and dis-

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1797. honorable. It is no imputation, however, upon Monroe's personal courage, that, to his other sins against Hamilton, he did not wish to add that of a duel with him. But to avoid it, after having himself introduced the subject, he found it necessary to withdraw from the position of partial defiance which he had assumed. "Seeing
Aug. 6. no adequate cause," so he wrote, "by any thing in our late correspondence, why I should give a challenge to you, I own it was not my intention to give or even to provoke one by any thing contained in these letters. I meant only to observe that I should stand on the defense, and receive one in case you saw fit to give it. If, therefore, you were under a contrary impression, I frankly own you are mistaken." If, however, Hamilton's last note was intended as a challenge, Colonel Burr was authorized, on Monroe's part, to make the necessary arrangements.
Aug. 7. Hamilton stated, in reply, that the intention of his note was very plain, namely, to meet and close with an advance toward a personal interview, which appeared to have been made by Monroe. As any such advance was now disclaimed, any further step on his (Hamilton's) part would be inconsistent with the ground he had hitherto taken, and improper.

This extraordinary correspondence thus closed, Hamilton proceeded to do what the countenance given by Monroe to the charges of Clingman and Callender had made necessary. To cut up by the roots all possible suspicion that, in order to cover up the offense of illegal speculation, he had falsely charged himself with adultery and forged letters to prove it, he did not hesitate to publish the entire correspondence, and a very curious one, too, between himself and the Reynoldses, husband and wife, with certificates as to the handwriting of the letters, of which the originals were deposited, so as to be open to

public inspection. Hamilton's numerous political enemies, at least the baser part of them, consoled themselves for the total failure of this new attempt against his reputation as a public officer by exulting over the pain and mortification which he must have suffered in being driven to the disclosures which he thought it necessary to make ; and they even insinuated—insinuations which have been often since repeated, that he had at least outraged propriety in venturing to defend his official integrity at the expense of so indecorous a confession. But it was not he, it was his rancorous and malignant enemies who had dragged his secret amours before the public ; and few who have a spark of generous feeling will be able to read, without emotion, his own excuse, in the introduction to his pamphlet, for defending his reputation as a public officer by telling the whole story without reserve.

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"This confession is not made without a blush. I can not be the apologist of any vice because the ardor of passion may have made it mine. I can never cease to condemn myself for the pang which it may inflict on a bosom eminently entitled to all my gratitude, fidelity, and love ; but that bosom will approve that, even at so great an expense, I should effectually wipe away a more serious stain from a name which it cherishes with no less elevation than tenderness. The public too, I trust, will excuse the confession. The necessity of it to my defense against a more heinous charge could alone have extorted from me so painful an indecorum."

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This matter has been gone into at greater length, not only as very illustrative of character, and because the circumstances attending it have been often misrepresented, but also as showing the desperate and outrageous kind of warfare to which some, at least, of the leaders of the opposition were willing to resort. Under these as-

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saults, which had, of late, begun to fall thick and heavy upon all the principal supporters of Washington's policy, the Federalists were by no means passive. The principal writers on the side of the opposition were recent immigrants from abroad, of whom there were several besides Callender. The Federalists were not without assistance from the same quarter. In the afterward so celebrated William Cobbett they had found a formidable champion. After an eight years' tour of duty in the British army, commencing just at the close of the American war, and passed principally in New Brunswick, during which he had risen from the ranks to be sergeant major of his regiment, and had improved his leisure to acquire a familiar knowledge of the French and a complete mastery of the English tongue, together with no inconsiderable stock of general information, Cobbett had emigrated to America in 1792. Of ardent feelings and most determined spirit, he had, as is not uncommonly the case with young men of that character, a traditional reverence for the institutions of his native country—a reverence proportioned, as he himself confessed at a later day, and as such feelings are very apt to be, to his ignorance of what those institutions practically were. His patriotism and his hatred of the French, which he had imbibed in the army, were inflamed instead of being cowed by the detestation of England and partiality for France which he found so prevalent in America; and under the influence of those feelings, he wrote and published, in 1794, a bitter satirical pamphlet on Priestley's emigration to America, and the demonstrations with which he had been welcomed at New York and Philadelphia. This pamphlet was favorably received by the Federalists, and was followed up by several others, principally relating to the British treaty, and published under the name of Peter

Porcupine, in which some very sharp thrusts were made at the Democratic opposition. Such, in fact, was the success of these writings, that Cobbett resolved to adopt that profession of a popular political writer, for which Nature had specially designed him. Having first set up a shop at Philadelphia for the publication and sale of his own writings—for he complained of having been a good deal fleeced by the printers and publishers for whom he had hitherto written—he commenced, simultaneously with Adams's administration, the publication of a daily paper called *Porcupine's Gazette*. In this, the eighth daily paper then published in Philadelphia (a greater number than in all the rest of the country), he handled the opposition with very little mercy. His pointed wit, cutting sarcasm, and free command of the plainest and most downright English, made him, indeed, a formidable adversary. But the ultra and uncompromising Toryism in which he gloried, and the entire freedom which he claimed and exercised in expressing his opinions, rendered him even more dangerous to the party he had espoused than to that which he opposed. Though publishing an American paper professedly in support of the administration, he did not profess to be any the less a Briton in his allegiance and his heart, and he came into collisions hardly more violent with Bache's *Aurora* than with the *Minerva*, the leading Federalist paper of New York, edited by Noah Webster, the afterward celebrated lexicographer. It was vainly attempted to silence him by threats of violence; he grew daily more formidable; to Monroe he showed no mercy; and perhaps it was the sting of some of his sharp squibs that had stimulated to the recent attack upon Hamilton.

That attack was presently followed up by a very remarkable experiment on Washington, with abuse of whom

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ington against what had the appearance of a snare Washington thereupon sent him a copy of the Langhorne letter and of his answer to it; and, some months after, Nicholas communicated, as Washington had requested, the result of his investigations. That letter of Nicholas has never yet been published, but its tenor may be judged of from Washington's reply. "Nothing short of the evidence you have adduced," so Washington wrote, "corroborative of intimations which I had received long before through another channel, could have shaken my belief in the sincerity of a friendship which I had conceived was possessed for me by the person"—this person was Jefferson—"to whom you allude. But attempts to injure those who are supposed to stand well in the estimation of the people, and are stumbling blocks in the way, by misrepresenting their political tenets, thereby to destroy all confidence in them, are among the means by which the government is to be assailed and the Constitution destroyed. The conduct of this party is systematized, and everything that is opposed to its execution will be sacrificed without hesitation or remorse, if the end can be answered by it.

"If the person whom you suspect was really the author of the letter under the signature of John Langhorne, it is not at all surprising to me that the correspondence should have ended where it did, for the penetration of that man would have perceived by the first glance at the answer that nothing was to be drawn from that mode of attack. In what form the next insidious attempts may appear, remains to be discovered. But as the attempts to explain away the Constitution and weaken the government are now become so open, and the desire of placing the affairs of this country under the influence and control of a foreign nation is so apparent and strong, it

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CHAPTER is hardly to be expected that a resort to covert means to
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Mr. Van Buren already referred to, in which he attempted to make out that he had retained Washington's confidence to the last.

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Apart from all other evidence, there are sufficient indications even in Jefferson's writings, as prepared by himself for publication, that he rated Washington as low and hated him with as much energy as he did all the other distinguished Federalists who had stood in his way. But dreading that great man's towering and indestructible popularity, made more solid by time, as a rock on which his own crumbling reputation might be dashed to pieces should he venture to assail it, and cringing, as he always did, to popular opinion, whether right or wrong, he has attempted the same course with posterity which he so long successfully practiced with Washington himself; he has assumed in his published writings the character of that great man's admirer, eulogist, and friend, while many passages of those same writings covertly hold him up to contempt as a mere tool in the hands of abler men, who took advantage of his monarchical predilections and decaying faculties to make him the cover and the instrument of their criminal projects.

But it is time to return from these dark intrigues to affairs of a more public nature.

The two new envoys, not long after their appointment, had separately embarked for Europe, there to join Pinckney, and to unite with him in a new attempt to arrange matters with the French republic. Their letters of credence and full powers declared them to have been appointed for terminating all differences, and restoring harmony, and good understanding, and commercial and friendly intercourse between the two republics. That the negotiation might not be interrupted by the death or disability of one or two of the envoys, these powers were

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conferred upon them jointly and severally. Their very elaborate and explicit instructions commenced by vindicating the neutral position of the United States, assumed, as was alleged, with the full concurrence of the French government; and by defending what had been done in support of that neutrality, as "pure in principle, impartial in operation, and conformable to the indispensable rights of sovereignty." The ministers were directed to seek, as an important object of their mission, compensation for the various injuries inflicted by France, both the more recent depredations on American commerce, and the older ones, of which a series existed from the very commencement of the existing war; but, though this was to be pressed with the greatest earnestness, it was not to be insisted upon as indispensable to a treaty. These claims, however, were in no event to be renounced; nor was the payment of them to be assumed by the United States as a loan to France.

Though the Directory had no pretensions to it as a matter of right, yet, should they make that a point, the treaty of commerce might be so modified as to allow the seizure of enemies goods in neutral vessels, and the ingrafting into it of regulations, to last during the present war, on the subject of provisions and other articles not usually deemed contraband, similar to those contained in the British treaty.

The mutual renunciation of the guarantee contained in the treaty of alliance, and which was assumed to apply only to defensive wars, was also suggested as very desirable for the United States; or, if that could not be obtained, a specification of the succors to be mutually rendered—those from the United States to be in money or provisions, and those from France in money, military stores, or clothing—the total amount not to exceed

\$200,000 in any one year. Special care was to be taken not to recognize the existence of any claim under the guarantee, so far as related to the present war, nor to make any admission that the present war came within the purview of the treaty. Indeed, the precaution was suggested of not referring to the guarantee at all, unless the subject were first introduced on the other side. Particular instructions were also given as to the consular convention, and to such articles of the treaty of commerce as had been differently understood by the two governments.

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In any arrangement that might be made, the envoys were to insist that no blame for any past transactions should be either directly or indirectly imputed to the United States. Exceptionable as the conduct of France had been, the United States, on the other hand, were willing to pass it over without comment. The envoys were expressly forbidden to stipulate any aid to France during the pending war; any engagement inconsistent with any existing treaty with other nations; any restraint upon lawful commerce with other nations; any stipulations under color of which French tribunals of any sort might be established in the United States; or any personal privileges to be claimed by Frenchmen resident in the United States incompatible with complete sovereignty and independence in matters of internal polity, commerce, and government.

As it was the object of the mission to obtain and to do justice, and to preserve peace, the style and manner of the proceeding were to be of the sort most directly tending to that end. If such changes had taken place in the French government as would render it politic, strong language was to be used; but if there appeared a determination to frustrate the negotiation, any warmth or

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harshness which might furnish the Directory with a pretense for breaking it off was to be carefully avoided. In the representation to be made to the French government, a style was recommended uniting, as much as possible, "calm dignity with simplicity, and force of sentiment with mildness of language," but calculated, at the same time, to convey the idea of "inflexible perseverance."

Oct. 4. Having joined each other in Paris, the three envoys sent notice of their arrival to the French minister for Foreign Affairs, requesting him to appoint a time for receiving copies of their letters of credence. The events which had transpired in France between the appointment of the envoys and their arrival were by no means encouraging. A favorable change had been hoped, and not without reason, from the periodical renewal, as provided for by the French Constitution of the year Three, of one of the Directors and two thirds of the Councils. But this infusion of popular sentiment into the governing machinery of the French republic had been promptly met and speedily extinguished. Two of the Directors, the least exposed to suspicion of personal corruption, with seventy members of the Councils, including Pichegru, president of the Council of Five Hundred, and Pastoret and Segur, who had ably exposed from the tribune the wrongs inflicted upon the United States, had been seized by their colleagues, and, under the old pretense of Royalism, had been shipped off to Cayenne. Of the two new Directors since appointed, one was Merlin, the same who, as president of the Convention, had given the fraternal hug to Monroe, and who, as minister of Justice, had sustained the condemnation of American vessels under the frivolous pretense of the want of a *role d'equipage*, that is, a certified list of the crew—a service which the privateers were believed to reciprocate by

allowing Merlin a share in the proceeds of their captures. The new minister of foreign affairs to whom the envoys addressed themselves proved to be no other than Talleyrand, lately a proscribed exile in the United States, whose visits, like those of other French emigrants, Washington had declined to receive, lest such acts of courtesy might have been added to the long list of complaints on the part of the French republic. But by one of those rapid transmutations so common in French politics, this late exile had now become the trusted and confidential agent of the Directory. The contemptuous observations as to the United States in which he indulged, as already reported in Pinckney's dispatches, afforded no very favorable omens for the success of the present mission.

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The envoys were informed by Talleyrand that he was then engaged upon a report to the Directory on American affairs. When that was finished, he would let them know what was to be done. To authorize their residence in Paris, meanwhile, he sent them permits, known at that time as "cards of hospitality."

After an interval of ten days, the envoys were informed by a gentleman to whom the information had been given by Talleyrand's private secretary, that the Directory were very much exasperated by some parts of the president's speech at the opening of Congress, and that no audience would probably be granted until the conclusion of the negotiation, which would, it was likely, be carried on by persons appointed for that purpose, and who would report to Talleyrand, to whom the management of the matter would be intrusted.

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Shortly after, a gentleman well known to the envoys, a partner in a noted mercantile house at Paris, which had already volunteered to answer their drafts for any sum they might need, called on Pinckney, and stated

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that a Mr. Hottinguer, to whom Pinckney had already been introduced, a gentleman of credit and reputation in whom the utmost confidence might be placed, had some important communications to make to them. Hottinguer himself called on Pinckney the same evening, and after chatting a while with the company that chanced to be present, whispered to Pinckney that he had a message from Talleyrand. Having withdrawn together to a private room, Hottinguer remarked that he had a plan to propose, by means of which Talleyrand thought a reconciliation might be brought about between France and the United States. The Directory, particularly two members of it, were very much irritated at some expressions in the president's speech, and, previous to a reception of the envoys, those expressions must be softened. A loan to the republic would also be insisted on; and a sum of money for the private pockets of the Directors must be placed at Talleyrand's disposal. The amount of the private *douceur* required was 1,200,000 livres, about \$240,000. As to the amount of the loan to the republic, or what particularly were the objectionable passages in the president's speech, Hottinguer could give no information. He stated, in fact, that what he knew was not directly from Talleyrand, but from another gentleman very much in that minister's confidence.

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As there seemed to be no other means of getting at the intentions of the French government, the envoys, after consulting together, agreed to extract from this unofficial source all the information they could, and in an interview the next day, at which all the envoys were present, Hottinguer reduced his suggestions to writing. It was stated in the memorandum thus furnished that the French government would be willing to agree to a board of commissioners to decide upon American claims on

France for depredations and debts due; but the sums awarded, as well as those hitherto admitted to be due, but not yet paid, must be advanced by the American government, and that, too, under an agreement on the part of the recipients that the amounts thus paid should be reinvested in additional supplies to the French colonies. First, however, there was to be deducted from this masked loan "certain sums," to wit, the 1,200,000 livres, "for the purpose of making the distributions customary in diplomatic affairs."

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Encouraged, it would seem, by the attention paid to his suggestions, and having first demanded and received a promise that in no case should his own name or that of the other gentleman be made public, Hottinguer returned the day after, this time bringing with him for further explanations that other gentleman, the alleged particular friend of Talleyrand, who proved to be a Mr. Bellamy, a citizen of Hamburg. After premising that he had no diplomatic authority, but was only a friend of Talleyrand's, trusted by him, and, like him, well disposed toward the United States, Bellamy pointed out the comments on Barras's farewell speech to Monroe, as well as several other paragraphs in the president's speech at the opening of Congress, of which as seeming to imply that France had acted injuriously toward the United States, a formal disavowal in writing would be required. That done, a new treaty would be agreed to, placing the matter of neutral rights in the same position as that established by the British treaty; but with a secret article for a loan. On the absolute necessity of the disavowal required, and also of paying a great deal of money, Bellamy dwelt with much emphasis: but the amount once agreed upon, care would be taken to consult the interest of the United States as to the best means

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CHAPTER of furnishing it, so as to avoid complaints on the part of
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1797. The two agents came the next day to breakfast, Bel-
Oct. 21. lamy, as he stated, fresh from Talleyrand, with whom he
had passed the morning. The apology demanded by the
Directory, however painful the making of it might be,
was, he said, an indispensable preliminary to the recep-
tion of the envoys, unless, indeed, they could find some
means to change that determination. Those means he
was not authorized to state; but he suggested, as his
own private opinion, that money would answer. The
Directors, he said, insisted upon the same respect for-
merly paid to the King of France, and the reparation
required could only be dispensed with in exchange for
something still more valuable. The Directory had on
hand thirty-two millions of florins in Dutch inscriptions
(obligations extorted from that dependant republic),
worth at the present moment, in the market, according
to Bellamy's account, one half their nominal value. On
the payment of their full value, \$12,800,000, the Direc-
tory would assign them to the American government.
It would, in fact, be only an advance on good security,
for after the war was over they would undoubtedly rise
to par. To a question on that point, Bellamy replied
that the douceur of \$240,000 must be a separate and ad-
ditional sum.

To all this the envoys answered that the proposition
for a loan went beyond their instructions. They offered,
however, that one of their number should return home
to consult the government on that point, provided the
Directory would agree to suspend, in the interval, all
further captures of American vessels, and all proceedings
on captures already made, and in case of prizes already
condemned and sold, the payment over to the captors of
the prize money.

This answer seems to have taken the agents quite by surprise. Bellamy complained that the proposal about money had been treated as though it had come from the Directory, whereas it did not even come from the minister, having been merely suggested by himself as a substitute for the apology which the Directory required. But to this the envoys replied, that from the circumstances under which their intercourse with Bellamy had originated (a thing not sought by them), they had conversed with him and his associate as they would have done with Talleyrand himself. It was true that no credentials had been exhibited, but, relying upon the respectable characters of Messrs. Hottinguer and Bellamy, the envoys had taken it for granted that they were in fact what they purported to be. As to the form of their answer, Mr. Bellamy could give it what shape he pleased. After all the depredations which the United States had suffered, they were astonished at the demands made upon them, as though America had been the aggressing party. On all points that could have been anticipated, they were fully instructed, but this matter of a loan was beyond their powers.

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Bellamy, in return, expressed himself with great energy as to the resentment of the Directory, and as the envoys seemed disinclined to accept his proposed substitute of a loan, he recalled their attention to his original proposition of an apology and recantation. But this, the envoys told him, was wholly out of the question; indeed, they did not suppose that it had been seriously urged. The Constitution of the United States authorized and required the president to communicate to Congress his ideas on the affairs of the nation. He had done so, and, in doing so, had stated facts with which all America was familiar. Over the president's speech the envoys had no

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power, and any attempt to exercise such power would not only be absurd in itself, but would lead to their immediate disavowal and recall. After much conversation, the two agents departed, apparently much alarmed at the audacity of the envoys—certain to result in their not being received.

The very next day after the failure of this first attempt upon them, the envoys were approached from another quarter. M. Hauteval, a respectable French gentleman who had formerly resided in Boston, informed Gerry, who had been well acquainted with him, that Talleyrand professed himself very well disposed toward the United States, and had expected to have frequently seen the American envoys in their private capacity, and to have conferred with them individually on the subject of their mission. Neither Pinckney nor Marshall had ever had any previous acquaintance with Talleyrand; but, after conferring together, it was agreed by the envoys that Gerry, who had known the French minister of Foreign Affairs during his residence in America, might, upon the strength of that acquaintance, properly enough call upon him; which he did the next day, in company with M. Hauteval. Talleyrand not being then at his office, the twenty-eighth of the month was appointed for an interview.

The day before that interview Hottinguer again called upon the envoys, and urged with much vehemence the policy of propitiating the Directory by a loan, since they were determined that all nations should aid them, or be considered and treated as enemies. Even if a loan might not be within their special authority, would it not be prudent to interest an influential friend in their favor? The character of the directors ought to be considered. Believing that America could do them no

harm, they would pay no regard to her claims, nor to any reasoning in support of those claims. Interest could be acquired with them only by a judicious application of money; and the envoys ought to consider whether the situation of their country did not require the use of such means. Both the loan and the *douceur* were pressed with great pertinacity and with a variety of arguments, but without making any impression on the envoys.

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At the interview the next day between Gerry and Talleyrand, Hauteval acted as interpreter. Talleyrand stated that the Directory had passed a decree, which he offered for perusal, requiring an explanation of some parts of the president's speech, and reparation for other parts of it. This, he was sensible, must be a troublesome thing to the envoys, but by an offer of money on their part he thought the operation of the decree might be prevented. Gerry objected that the envoys had no such powers; to which Talleyrand replied, "Then assume them, and make a loan." Gerry thereupon reiterated to Talleyrand the statements already made to Hottinguer and Bellamy. The envoys had ample powers for the discussion and adjustment of what, in their view, were the real points of difference between the two nations; but they did not consider the president's speech as coming within the range of diplomacy; they had no powers as to a loan, and any agreement of theirs to make one would be a deception on the Directory. Still, if the other points in controversy could be adjusted, they might, if it were deemed expedient, send home one of their number for instructions on that head. Talleyrand replied that this matter of the money must be settled at once without sending to America, and that, to give time for it, he would keep back the decree for a week. Even if the difficulty about the president's speech were settled, application would still

Oct. 2^a

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1797. go to the United States for a loan. Hauteval, having been requested by Talleyrand to repeat to Gerry and his colleagues what he had said, accompanied Gerry to his lodgings, and the other two envoys being present, a minute was made of Talleyrand's propositions. This having been certified by Hauteval as correct, he was desired by Pinckney and Marshall to inform that minister that as Gerry had fully expressed their sentiments, they had nothing to add, and that it was not necessary to delay the decree on their account.

Oct. 29

The next day Hottinguer called again on the envoys with new assurances of Talleyrand's anxiety to serve them. After dwelling afresh on the power and haughtiness of France, he suggested a new proposition. If the envoys would pay by way of fees, as he expressed it, the sum demanded for the private use of the Directory, they might be suffered to remain in Paris till they could consult their government on the subject of a loan. In that case, though not received by the Directory, they would be recognized by Talleyrand. On being asked if the Directory would also suspend the capture of American vessels, and restore those already taken, but not condemned, he said they would not, but Talleyrand had observed that the winter was approaching, and that few prizes would be made during that season. To the question why they should pay twelve hundred thousand livres for the mere privilege of spending the winter in Paris, he replied that they might in that way postpone hostilities, and that in the interval a change might take place. To this the envoys replied, that if they saw any prospect of an adjustment, or any real good to be gained, they should not stand for a little money, such as was stated to be usual; but that, so long as the depredations on American commerce continued, they would not give a cent, nor

would they even consult their government as to the loan. Hottinguer's answer was, that unless they paid this money they would be obliged to quit Paris; that the vessels already captured would be confiscated, and all American ships in French ports embargoed. He expressed a wish that the envoys would see Bellamy once more, and this being assented to, Hottinguer and Bellamy called together the next morning. Bellamy argued, at great length, that in case of a war between France and the United States, no help could be expected from England, already so reduced as to be under the necessity of making peace with France. It was even hinted that the United States might in that case experience the fate of Venice, which, by the late treaty of peace between France and Austria, had been stripped of her independence, and annexed to the Austrian dominions. Recent events, he stated, had given Talleyrand new strength and greater influence, and he was now able to go much further on behalf of America than he could have done but a short time before. What was now suggested must be offered, however, as coming from the envoys themselves; nor would Talleyrand be responsible for the success of any of the propositions; all he could promise was to use his influence in their favor. The propositions thus suggested for the envoys to make were: First, that a commission should be named to decide on American claims, which, as fast as they should be authenticated and allowed, should be paid, as also the amount of claims already admitted to be due by the American government as an advance to the French republic; this advance to be repaid as might be agreed: Second, that one of the envoys should immediately proceed to America to obtain the necessary powers—in case a treaty should be finally concluded, negotiations for which were meanwhile to proceed

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—to purchase for cash the thirty-two millions of Dutch inscriptions; all cases involving the question of the *role d'équipage* to remain suspended till an answer as to this purchase could be obtained from America. To these might be added a third proposition—that during the six months to be allowed for a reference to America, there should be a cessation of captures and of all proceedings in the prize courts against American property; but this Bellamy said was merely his own suggestion, for he did not know that Talleyrand would even consent to lay it before the Directory. Bellamy strongly urged upon the envoys the expediency of any accommodation to which France would agree. Such, he said, was her diplomatic skill, and so great her influence in America, that she could easily throw the blame of a rupture upon the American government, and upon its Federal, or, as they were called in France, its British supporters.

At a detailed answer attempted by the envoys to this long discourse, Bellamy manifested great impatience. He did not come, he said, to hear eloquent harangues. Here were certain propositions, which, if the envoys would request it, the minister would make for them to the Directory. He had just stated what they were, and all the answer wished for was yes or no. Did the envoys, or did they not, request the minister to make these propositions on their behalf? Bellamy left the propositions in writing, and Hottinguer stated that Talleyrand would not consent even to lay them before the Directory unless the 1,200,000 livres, or the greater part of that sum, were first paid. To these propositions the envoys gave a written answer, in substance, that they would not stand on etiquette, and that they were ready for the appointment of a commission of claims, but they would assume no French debts, even though the money were

to be paid to the use of American citizens. They were ready to enter upon the discussions of a new treaty, and, if necessary, to consult their government as to a loan; but, at this season of the year, six months would hardly suffice for that purpose. No diplomatic gratification could precede the ratification of the treaty.

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It was now resolved by the envoys to have no more of this indirect negotiation, the attempt at which was regarded as degrading to the United States. Information to that effect was given to Hottinguer when he applied, two days after, for another interview between the envoys and Bellamy; but that same day he called again, and showed and read a draft of a letter to the envoys, prepared, as he said, by Talleyrand, requesting an explanation of parts of the president's speech. This letter, of which he would allow no copy to be taken, would be sent, he stated, unless the envoys came into the proposal already made to them. Intelligence, he remarked, had been received from the United States that, had Burr and Madison been sent as envoys, the dispute might have been settled before now; and he added that Talleyrand was about to send a memorial to America complaining of the envoys as unfriendly. To this the envoys replied that the correspondents of the minister in America ventured very far when they undertook to pronounce how, in certain contingencies, the Directory would have acted. They were not afraid of Talleyrand's memorial, and he might rest assured that they would not be driven by the apprehension of censure to deserve it. They relied for support on the great body of honest and candid men in America. Their country had taken a neutral position, and had sought faithfully to preserve it. A loan to one of the belligerent powers would be taking part in the war; and for the United States to do that against their

Nov. 1.

Nov. 3.

CHAPTER own judgment and at the dictation of France, would be
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1797. Having first transmitted to America a full account in cipher of the above unofficial negotiations—of which, to escape the interruptions to which communications across the Atlantic were at that time exposed, no less than six copies were sent by as many different vessels—the en-

Nov. 11. voys presently addressed a note to Talleyrand reminding him of his promise, when informed of their arrival, to communicate to them, within a few days, the decision of the Directory on the report he was preparing on American affairs. In again soliciting his attention to their mission, they took occasion to express their earnest desire to preserve for the United States the friendship of France, and to re-establish harmony and friendly intercourse between the two republics.

Nov. 21. Ten days having passed without any notice being taken of this letter, the private secretary of one of the envoys was sent to inquire whether it had been laid before the Directors, and when an answer might be expected. Talleyrand replied that he had laid the letter before the Directory, and that they would instruct him what steps to pursue, of which due notice would be given to the envoys. A month passed without any such information. Meanwhile the condemnation of American vessels not only went on, but a report spread that the Directory intended to order all Americans out of Paris at twenty-four hours' notice. Hottinguer and Bellamy attempted also, in the interval, to inveigle the envoys into further discussions. These attempts were repulsed; but eager advantage was taken of a suggestion of Gerry's, that he should like to wait on Talleyrand for the purpose of reciprocating that minister's personal civilities to himself by an invitation to dinner, on which occasion he pro-

posed to ask his colleagues also, in hopes that the way might be smoothed toward a better understanding; especially as he intended to remonstrate with the minister on the precarious and painful position in which the envoys stood. Bellamy at once volunteered to accompany Gerry to Talleyrand's. Having called on Gerry for that purpose, and finding Marshall present, he stated that a good understanding between the two nations might be immediately restored by adopting two measures, of which one was the gratuity of 1,200,000 livres, and the other the purchase of 16,000,000 of Dutch rescriptions—half the amount formerly proposed. Some suggestions were made as to paying the gratuity, or, rather, as to covering it up, by a deduction to an equal amount from a claim held by M. Beaumarchais against the State of Virginia for supplies furnished during the Revolutionary war, in the prosecution of which Marshall had acted as the counsel of Beaumarchais. The purchase money of the Dutch rescriptions would amount to only \$6,400,000, half of which might be borrowed in Holland on a pledge of the paper, while the other half might also be obtained on loan, under an easy arrangement for payment by installments. If these propositions were not accepted, steps would be immediately taken to ravage the coasts of the United States by frigates from St. Domingo. This conversation over, Gerry accompanied Bellamy to Talleyrand's office. During the conversation there Gerry mentioned that Bellamy had that morning stated some propositions as coming from Talleyrand; on those propositions he would give no opinion, his present object being to invite the minister to fix a time for dining with him, in company with his colleagues, though, considering the position in which they relatively stood, he did not wish to subject Talleyrand to any embarrassment by

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1797. accepting the invitation. He then alluded to the awkward position of himself and his colleagues, and to the reported intention to order all Americans to leave Paris. So far as respected themselves, the envoys were ready to leave at any time. Indeed, they would prefer to reside out of the French jurisdiction till the question of their reception should be settled. Talleyrand seemed a little startled at this remark, but, without noticing it, observed that the information given by Bellamy was correct, and might always be relied upon, and that he himself would reduce it to writing; and he immediately made and showed to Gerry a memorandum, which he afterward burned, containing the proposal for the purchase of the Dutch rescriptions, but without any mention of the gratuity, that being a subject too delicate for Talleyrand to make any direct reference to it. He then accepted the invitation to dine, and as he was engaged on the first day of the following decade (those days of leisure being usually selected for ceremonious dinner parties), he fixed the time ten days later.

- Dec. 19. A day or two after Gerry's interview with Talleyrand, the envoys resolved to persist rigidly in their determination, previously taken, to enter into no negotiations with persons not formally authorized to treat; and also to prepare a letter to the minister, stating the objects of their mission, and discussing at length the matters of difference between the two nations, exactly as if the envoys had been formally received—this letter to close with a request that a negotiation might be opened or their ~~pass-~~ports be sent to them. This intention was expressed in their letters to their own government giving an account of their adventures thus far, and in which they stated their opinion that, were they to remain six months longer, they could accomplish nothing without promising to pay
- Dec. 24.

money, and a great deal of it too; unless, indeed, the proposed invasion of England, to be commanded by Bonaparte, should prove a failure, or a total change should take place in the administration of the French government.

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Gerry's diplomatic dinner, in spite of all his efforts to get up a little cordiality, proved, as he afterward complained—principally, as he would seem to intimate, by the fault of his colleagues—a very cold and stiff affair. But, though he failed to draw them into any social intercourse with Talleyrand, he continued his visits, and by that means was drawn into a continuation, by himself, of those unofficial negotiations which he had been the first and most earnest to protest against.

Dec. 30.

The paper on which the envoys had agreed, containing a full and elaborate statement of the grievances of the United States, and an answer to the various complaints which had been urged at different times on behalf of the French government, was prepared by Marshall; and after being somewhat softened at the suggestion of Gerry, it was signed by the envoys; but as it was their custom to send their memorials accompanied by an accurate French translation, a fortnight elapsed before it was ready to send. It concluded with a request that, if no hope remained of accommodating the differences between the two nations by any means which the United States had authorized, the return of the envoys to their own country "might be facilitated;" in which case they would depart with the most deep-felt regret that the sincere friendship of the government of the United States for "the great French republic," and their earnest efforts to demonstrate the purity of that government's conduct and intentions, had failed to bring about what a course so upright and just ought to have accomplished.

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Before this document was sent, the very day, indeed, after its signature, a new decree was promulgated, for some time under discussion in the French legislative body, and a draft of which had been forwarded to the United States with the last dispatches of the envoys. This decree, of a more sweeping and outrageous character than any yet issued, never paralleled, indeed, except by Bonaparte's subsequent imitations of it, while it forbade the entrance into any French port of any vessel which at any previous part of her voyage had touched at any English possession, declared good prize all vessels having merchandise on board the produce of England or her colonies, whoever the owner of the merchandise might be.

- Feb. 6. A letter was speedily prepared remonstrating against this decree, and concluding with an explicit request for passports; but, even after it had been redrafted to accommodate it to Gerry's taste, he still refused to sign it.
- Feb. 18. This separation of Gerry from his colleagues grew out of a recent interview to which Talleyrand had specially invited him, and at which he had consented to receive communications under a promise to keep them secret—a promise wholly unwarrantable, since, by the very terms of their commission, in all that related to the embassy the envoys were to act jointly. Having obtained this promise of secrecy, Talleyrand had stated that the Directory were not satisfied with Gerry's two colleagues, and would have nothing to do with them, but that they were ready to treat with Gerry alone; adding, that his refusal would produce an immediate declaration of war. Since Gerry's commission was several as well as joint, he had full powers, so Talleyrand argued, to treat independently of his colleagues. But however flattering this preference might be to a vanity which Talleyrand had no doubt discover-

ed to be a weak point in Gerry's character, he had too much sense to be taken in by so transparent a sophism, though it was warmly urged upon him at two separate interviews. Nor, indeed, was the prospect of a separate negotiation very inviting.

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Gerry's colleagues soon became aware of his secret interviews with Talleyrand; nor were they long in conjecturing what might be their subject-matter, if, indeed, they were not actually put upon the track by some of Talleyrand's secret agents.

Near a month passed away, and no notice had been taken of Marshall's long memorial on the claims and rights of the two republics. Indeed, Talleyrand's private secretary had intimated that nobody had yet taken the trouble to read it, such long papers not being to the taste of the French government, who desired to come to the point at once.

To come to some point as speedily as possible was the very thing which the envoys wished, and, to that end, it was agreed to ask a joint interview with the minister, a request to which Talleyrand readily acceded. Pinckney opened the conversation by observing that the envoys had received various propositions through Bellamy, to which they found it impossible to accede, and that their present object was to ascertain if no other means of accommodation could be devised. Talleyrand, in reply, reverted at once to the old idea of a loan. As to want of power, envoys at such a distance from their own government, and possessing, as they did, the public confidence, must often use their discretion, and exceed their powers for the public good. In almost all the treaties made of late, this had been done, though the negociators in those cases were so much nearer to their own governments than the American envoys. Express instructions

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might, indeed, be a fetter, but he argued on the presumption, into which the former communications of the envoys had tended to lead him, that their instructions were merely silent on the subject. A loan, he said, was absolutely necessary to convince the Directory that the United States were really friendly. A thousand ways might be found to cover it up so as not to expose them to the charge of a breach of neutrality.

To these observations Marshall replied, that the friendship of the United States for France might seem to have been sufficiently exhibited by the appointment of the present mission, and by the patience with which the enormous losses of property inflicted by French captures had so long been borne. A loan to France would be wholly inconsistent with that neutrality so important to the United States, and which they had struggled so hard to maintain. If America were actually leagued with France, it could only be expected of her to furnish money; so that to furnish money would be, in fact, to make war. Under the American form of government, a secret loan was entirely out of the question.

March 6.

At a second interview a few days after, the conversation was opened with a remark that Talleyrand's proposal seemed to be the same in substance with the suggestions of Hottinguer and Bellamy. To put an end to that matter, he was distinctly informed that any loan, even the assumption of debts due to American citizens, was expressly prohibited by the instructions of the envoys. Talleyrand then reverted to a proposition suggested through his secretary a few days before to Gerry, and which Gerry had then seemed disposed to entertain—a loan to take effect after the conclusion of the pending war. Upon this there was much argument, the envoys insisting that their present instructions were

as much against such a loan as any other. What their government might think about it they could not tell. If Talleyrand desired it, Marshall and Gerry would go home for further instructions, or they would wait in expectation of answers to their communications already made.

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Some two weeks after this interview, it being now supposed, as it would seem, that Gerry was prepared to act the part expected of him, Talleyrand made a long reply to the elaborate memorial of the envoys. Throughout that memorial it had been tacitly assumed that the United States had been fully justified in taking a position of neutrality, an assumption which the former admissions of the French government would seem to warrant, and upon which the whole argumentation of the memorial depended. While discussing separately and minutely all the specific complaints made by the French government, there had been no reference in that paper to the subject of the guarantee contained in the treaty of alliance. Avoiding equally any direct discussion, Talleyrand tacitly assumed, on the other hand, that the treaty of alliance did impose a certain duty of assisting France inconsistent with a rigid neutrality; and he complained that the envoys, "reversing the known order of facts," had passed over in silence "the just motives of complaint of the French government," and had endeavored to show, by "an unfaithful and partial exposition," that the French republic had no real grievance, the United States being alone entitled to complain and to demand satisfaction; whereas the first right of complaint was on the side of the French, who had real and numerous grounds for it, long before the existence of any of the facts on which the envoys dilated with so many details. All the depredations on the part of Francee (ex-

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tending by this time to the value of many millions of dollars) were assumed to be merely retaliations for previous breaches of treaty obligations on the part of the United States. Having laid down this preliminary, which, even upon his own principles, was far from being well founded—since the act of France in setting aside that article of the treaty which protected enemy's goods in American vessels had preceded any act whatever of the American government of which France, under any view, had a right to complain—Talleyrand proceeded to reiterate the old charges: the jurisdiction exercised over French cruisers and their prizes in American ports; the admission of English ships of war into American ports; the refusal to carry out the consular convention; and, above all, the British treaty, “as filling up the measure of the grievances of the republic.”

As to Genet's admissions of the right of the United States to assume a neutral position, he has gone no further, so Talleyrand stated it, than merely to intimate that, though the case provided for had clearly occurred, the United States would not be pressed on the guarantee. “Far from appreciating this conduct”—this proof of the friendly disposition of France—“the American government received it as the acknowledgment of a right, and it is in this spirit also that the envoys extraordinary have met this question.” To the friendly disposition of France, still further evinced by the national embrace which Merlin had given to Monroe, the United States had most ungratefully responded by negotiating the British treaty, deluding France all the while with the idea that Jay had no powers except to demand reparation for injuries. Thus was brought up in judgment against the American government the attempts of Monroe to pledge it to his own policy, instead of conforming himself, as

a minister should, to the policy of those for whom he acts. "When the agents of the republic complained of this mysterious conduct," such were Talleyrand's comments, "they were answered by an appeal to the independence of the United States, solemnly sanctioned in the treaties of 1778—a strange manner of contesting a grievance, the reality of which was demonstrated by the dissimulation to which recourse was had ; an insidious subterfuge, which substitutes for the true point in question a general principle which the republic can not be supposed to dispute, and which destroys, by the aid of a sophism, that intimate confidence which ought to exist between the French republic and the United States."

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Having referred to the small majorities by which the British treaty had been sanctioned, and to "the multitude of imposing wishes expressed by the nation against it," as confirming the views of the French government, Talleyrand proceeded to denounce the treaty as calculated in every thing to turn the neutrality of the United States to the disadvantage of the French republic and to the advantage of England, making concessions to Great Britain "the most unheard of, the most incompatible with the interests of the United States, and the most derogatory to the alliance between the said states and the French republic," in consequence of which the republic became perfectly free "to avail itself of the preservative means with which the law of nature, the law of nations, and prior treaties furnished it." Such were the reasons which had produced the decrees of the Directory, and the conduct of the French agents in the West Indies complained of by the United States ; measures alleged to be founded on that article of the commercial treaty which provided that in matters of navigation and commerce the French should always stand with respect to the United

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1798. States on the footing of the most favored nation. If, in the execution of this "provisional clause of the treaty," some inconvenience had resulted to the United States, the Directory could not be responsible for that. As to any abuses attendant upon the execution of the late decrees, those Talleyrand was ready to discuss "in the most friendly manner." The extraordinary doctrine suggested by Adet, and now formally set forth by Talleyrand, was simply this: If other nations were not willing to make with the United States certain stipulations as to maritime rights, out of the common course, such as France and the United States had mutually made, France, under the above-cited provision, was entitled to a release from her special stipulations. Nay, further; if any other nation wrongfully depredated on American commerce, France was at liberty, under the treaty, to depredate equally!

But, according to Talleyrand, the grievances of France did not end with the negotiation of Jay's treaty. The Federal courts had since expressly decided that French cruisers should no longer be permitted to sell their prizes, as they had done, in American ports. Nor was this all. "The newspapers known to be under the indirect control of the cabinet have, since the treaty, redoubled their invectives and calumnies against the republic, her principles, her magistrates, and her envoys. Pamphlets openly paid for by the British minister have reproduced, in every form, those insults and calumnies;" an allusion, no doubt, to some of Cobbett's pamphlets, particularly the "Bloody Buoy," setting forth the horrors of the French Revolution—"nor has a state of things so scandalous ever attracted the attention of the government, which might have repressed it. On the contrary, the government itself has been intent upon encouraging this scan-

dal in its public acts. The Executive Directory has seen itself denounced, in a speech delivered by the president, as endeavoring to propagate anarchy and division within the United States. The new allies which the republic has acquired, and which are the same that contributed to the independence of America, have been equally insulted in the official correspondences which have been made public. In fine, one can not help discovering, in the tone of the speech, and of the publications which have just been pointed out, a latent enmity, which only waits an opportunity to break forth."

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The instructions to the present ministers, so Talleyrand proceeded to charge, had been prepared, not with the view of effecting a reconciliation with France, but for the purpose of throwing upon the French republic the blame of a rupture, being plainly based on a determination "of supporting at every hazard the treaty of London, which is the principal grievance of the republic; of adhering to the spirit in which that treaty was formed and executed, and of not granting to the republic any of the reparations" which had been proposed through the medium of Talleyrand. Chiming in with the tone of the opposition in America, this extraordinary manifesto proceeded as follows: "Finally, it is wished to seize the first favorable opportunity to consummate an intimate union with a power toward which a devotion and partiality is professed, which has long been to the Federal government a principle of conduct." "It was probably with this view that it was thought proper to send to the French republic persons whose opinions and connections are too well known to hope from them dispositions sincerely conciliatory. It is painful to be obliged to make a contrast between this conduct and that which was pursued, under similar circumstances, towards the cabinet of St. James.

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An eagerness was then felt to send to London ministers well known for sentiments corresponding with the objects of their mission. The republic, it would seem, might have expected a like deference, and if the same propriety has not been observed with regard to it, it may with great probability be attributed to the views above alluded to." Upon this specious paragraph it may be observed that the present envoys had, in point of fact, been selected, the one for his pronounced attachment to France, the others from their known freedom from any prejudice or warmth of feeling against her. Jefferson's endorsement of the mission has already been recorded. There had been already experience enough in Monroe's case of leaving the negotiation entirely in the hands of envoys destitute of any sympathy for the government which they represented.

"The undersigned," so the document proceeds, "does not hesitate to believe that the American nation, like the French nation, sees this state of things with regret. The American people, he apprehends, will not be deceived either as to the prejudices with which it is sought to inspire them against an allied people, nor as to the engagements into which it is sought to seduce them to the detriment of an alliance which so powerfully contributed to place them in the rank of nations and to support them in it, and that they will see in these new combinations the only dangers their prosperity and importance can incur." "Penetrated with the justice of these reflections and their consequences, the Executive Directory has authorized the undersigned to express himself with all the frankness that becomes the French nation. It is indispensable that, in the name of the French Directory, he should dissipate those illusions with which, for five years, the complaints of the ministers of the republic at Phila-

delphia have been incessantly surrounded, in order to weaken, calumniate, or distort them. It was essential, in fine, that, by exhibiting the sentiments of the Directory in an unequivocal manner, he should clear up all the doubts and all the false interpretations of which they might be the object."

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After these lengthened preliminaries, intended, as he said, only to smooth the way for discussions, Talleyrand came at last to the point. "Notwithstanding the kind of prejudices which had been entertained with respect to the envoys, the Executive Directory were disposed to treat with that one of the three whose opinions, presumed to be more impartial, promised, in the course of the explanations, more of that reciprocal confidence which was indispensable." This overture, it was hoped, would be met without any serious difficulty; the more so, as the powers of the envoys were several as well as joint, "so that nothing but the desire of preventing any accommodation could produce any objection." This method was only "pointed out" to the commissioners, not imposed upon them, and it evidently could have no other object, so Talleyrand asserted, "than to assure to the negotiation a happy issue, by avoiding at the outset anything which might awaken, on either side, in the course of the negotiation, sentiments calculated to endanger it."

It might seem strange that the Directory, unless they really intended to drive America into a war, should have ventured to put forth a manifesto like this. To preserve peace with France, the United States were required to repudiate the treaty with Great Britain, after having secured in the Western posts one of the great objects of that negotiation, and, like unfortunate Holland, "liberated," as it was termed, by the French arms, to become a forced lender to the French republic, perhaps presently,

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when drained of cash and credit, to supply "inscriptions," like those of Holland, to be palmed off in the same way upon some new victim of French rapacity. These disgraceful concessions would naturally be followed by an open engagement on the side of France in the pending war with Great Britain—a ruinous entanglement, to avoid which had been the great object of Washington's policy during the five years past. Talleyrand had been encouraged to venture upon these outrageous demands, by what he believed to be the sentiments, if not of a majority of the American people, at least of a minority so large as effectually to embarrass, if not to control, the action of the government. To judge by most of the Americans then or lately residents in France—not merely those infamous persons ready to enrich themselves by any means, even by privateering against their own countrymen, but by such men as Monroe, as Skipwith the consul general, as Barlow, who, having accumulated a fortune by commercial speculations, had lately purchased at Paris one of the confiscated palaces of the old nobility—the body of the American people wanted nothing better than to throw themselves headlong into that French embrace, so deadly to all whom it encircled; an opinion which might derive confirmation from the tone of the opposition leaders and opposition newspapers in America, claiming, as they did, to be the true representatives of the American people, while, as they alleged, the administration was sustained only by a few monarchists, aristocrats, speculators, old Tories, and merchants trading on British capital. From his residence in America, Talleyrand must have known that these representations were greatly exaggerated. But he also knew well the strength and bitterness of the opposition, and the fierce hatred of Great Britain which so extensively prevailed; and he

calculated with confidence that, under these circumstances, it would be impossible for the government to take any steps hostile to France. Of the feebleness of the government ample proof had, indeed, been exhibited. A solemn embassy of three envoys had been appointed to supply the place of a minister rejected with insult; and depredations on American commerce, to the amount of millions of dollars, had hitherto been patiently borne. So far, this system of insult and injury had answered well, and the Directory seem to have thought that it was only necessary to persist in it to carry every point.

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After due deliberation, the envoys made a detailed and elaborate rejoinder to Talleyrand's manifesto—a powerful, and, for the most part, a conclusive reply as to all the alleged special breaches of treaty, whether before Jay's mission, by the negotiation of the British treaty, or subsequently to it. The attempted justification of the recent hostile decrees under that clause of the treaty of commerce securing to France the privileges of the most favored nation, was fully exploded; to which the envoys dryly added, that the provisions of those decrees most complained of, particularly the authorization of captures for want of a *role d'équipage*, could have no possible relation to any thing conceded or pretended to be conceded to any other nation, as the British had made no captures on any such pretense. The late outrageous decree, intended to cut off all intercourse between Great Britain and other nations, was made the subject of an energetic remonstrance, as totally inconsistent with neutral rights and the law of nations, to acquiesce in which would be to establish a precedent for national degradation, such as would never cease to authorize any measures which power might be disposed to adopt. The president's strictures on Barras's speech were justified,

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CHAPTER not as a denunciation of the Directory, but as the state-
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1798. of the president's duty. Talleyrand's attempt to hold the
American government responsible for the freedoms of
the American press was well touched. But the main point
of the manifesto—assumed, indeed, in that document
rather than argued—the binding force of the guarantee,
and the consequent inability of the United States to as-
sume a neutral position, were passed over in silence.

The only decisive evidence of feeling which the en-
voys suffered to escape them was in reference to the
charge of duplicity in the matter of Jay's negotiation
urged against the American government, and to which
the conduct of Monroe had contributed to give a certain
color. In reference to the imputation of hostility to
France and devotion to England, they declared them-
selves "purely American, unmixed with any particle
of foreign tint," and anxious to manifest their attach-
ment to their country by effecting a sincere and real
accommodation with France, not inconsistent with the
independence of the United States, and such as might
promote the interest of both nations. They denied that
Jay could have been any more desirous to bring the Brit-
ish negotiation to a successful issue than they were of
an honorable accommodation with France; and they
pointedly asked whether, supposing Jay's demands for
reparation of past injuries and security for the future to
have been met only by requisitions to comply with which
would have involved the nation in evils of which even
war would, perhaps, not be the greatest; supposing all
his attempts to remove unfavorable impressions to have
failed, and all his offers to make explanations to have
been rejected; supposing Jay himself to have been or-
dered out of England, would other ministers have been

sent to supply his place? or, if sent, would they have waited six months unaccredited, soliciting permission to display the upright principles on which their government had acted, and the amicable sentiments by which it was animated? CHAPTER
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As to the proposition to treat with one of the envoys, selected by the French government, to the exclusion of the other two, they regretted that even that proposal was unaccompanied with any assurance of an abandonment of those demands for money hitherto proposed as the only condition on which a stop would be put to the depredations daily carried on against American commerce; demands which the envoys had no power to accede to, and which the United States would find it very difficult to comply with, since such a compliance would violate their neutrality, and involve them in a disastrous war with which they had no proper concern. Yet to this, as to every other proposition of the Directory, they had given the most careful and respectful consideration, and the result of their deliberations was, that no one of the envoys "was authorized to take upon himself a negotiation evidently intrusted, by the tenor of their powers and instructions, to the whole; nor were there any two of them who would propose to withdraw from the trust committed to them by their government while there remained a possibility of performing it." The present paper, they hoped, might suffice to dissipate the prejudices which had been conceived against them; but if not, and if it should be the will of the Directory to order passports for the whole, or any of them, it was expected that such passports would be accompanied by letters of safe-conduct amply sufficient to give to their persons and property as against French cruisers, that perfect security to which the laws and usages of nations entitled them.

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Anxious as Talleyrand was to get rid of Pinckney and Marshall, he desired their departure to have the appearance of being their own act. With this object in view, on the very day on which was presented the joint memorial above quoted, he addressed a note to Gerry, intended, as the secretary who delivered it said, to be shown to his colleagues, and in which—presuming that Pinckney and Marshall, in consequence of the intimations already given to them, and of “the obstacles which their known opinions had opposed to the desired reconciliation,” “had thought it proper and useful to quit the territory of the republic”—he proposed the resumption of their reciprocal communications upon the interests of the French republic and of the United States. Gerry had consented to remain, notwithstanding the expulsion of his colleagues, terrified, so he afterwards alleged in excuse, by Talleyrand’s repeated threats of an immediate declaration of war if he left Paris, and flattering himself, no doubt, that the personal preference expressed for him, and his superior tact in accommodating himself to the humors, not to say insolences, of the French government, might, notwithstanding all that had passed, open the way to a reconciliation. But he peremptorily declined to be employed as the instrument of any indirect attempt to drive his colleagues out of France, or to do anything painful to their feelings, or to refrain from rendering them all the assistance in his power. The conditional demand for passports contained in their last joint note of the envoys made any further hints about their departure unnecessary. As to Talleyrand’s proposition to him to go on singly with the negotiation, he still adhered to the opinion that, under his instructions, he had no power to treat independently of his colleagues; but he would confer informally, and would communicate the result to

his government, and every measure in his power, and in conformity with his duty to his country, should be zeal-
ously pursued to restore harmony and cordial friendship
between the two republics.

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It was not without much caviling, and after experiencing many indignities, that Marshall obtained passports and a safe-conduct. Talleyrand even went so far as to dispute, on the ground that he had not been received, his character of envoy, and his right to the protection of that character. At last, however, the safe-conduct was sent, and Marshall hastened to leave Paris on his way to America. Pinckney, not without great difficulty, obtained leave, on account of his daughter's health, to remain a few months in the south of France. Thus was Talleyrand left in possession of the field with Gerry in his claw. But, before pursuing further the history of this extraordinary negotiation, it is necessary to recur to what was passing in America.

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FEDERALISM IN VIRGINIA. YRUJO, M'KEAN AND COBBETT.
LAW OF LIBEL. SECOND SESSION OF THE FIFTH CON-
GRESS. MISSISSIPPI TERRITORY. PREPARATIONS FOR
DEFENSE. ALIEN AND SEDITION LAWS. FOURTH CON-
STITUTION OF GEORGIA.

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1797. **T**HAT vehement and virulent party spirit, and close drawing of party lines, which had of late displayed itself in Congress, rapidly spreading throughout the whole country, had made itself conspicuously felt in the elections which succeeded the adjournment of the called session. The opposition had greater hopes of Vermont than of any other New England State. Chittenden, so long the governor, had leaned to their side. But on his declining a re-election, the Federalists succeeded, by a
Sept. very close vote, in choosing Isaac Tichenor. The opposition, however, obtained a majority in the lower house of the Legislature, and it was only by one vote that
Oct. Nathaniel Chittenden, the Federal candidate, was chosen to supply Tichenor's place in the United States Senate.

Jan. In Maryland, in the choice of John Henry, late a senator in Congress, to be governor of that state, the opposition had triumphed; but James Lloyd, the Federal candidate, had been chosen senator in Henry's place by a majority of one vote.

In all the states south of the Potomac, South Carolina included, the opposition was predominant. Yet even in Virginia some signs of the existence of a Federal party begun to show themselves. A grand jury of the

Federal Circuit Court held at Richmond, after a pretty warm charge from Judge Iredell, in which something of politics had been mingled, presented as "a real evil the circular letters of several members of the late Congress, and particularly letters with the signature of Samuel J. Cabell," "endeavoring, at a time of real public danger, to disseminate unfounded calumnies against the happy government of the United States, and thereby to separate the people therefrom, and to increase or produce a foreign influence ruinous to the peace, happiness, and independence of the United States." Cabell made a very warm retort to this presentment, accusing the grand jury of going out of their province. But the political leaders of Virginia were not disposed to let the matter rest there. This incipient germ of Federalism was to be repressed with a strong hand. It was proposed to bring the matter before the House of Representatives as a breach of privileges; but, unluckily, the opposition majority in that body, if, in fact, there was any, was too uncertain to be depended upon. In this emergency, Jefferson pressed upon Monroe to have the matter brought before the State Legislature. Monroe had his doubts whether it came within the province of state jurisdiction. Jefferson, strict constructionist as he was in all that related to the powers of the Federal government, made up for it by a very liberal construction of the powers of the states. Free correspondence between citizen and citizen, on their joint interests, whether public or private, was, according to his statement to Monroe, a natural right, and as no jurisdiction over that right had been given to the Federal judiciary, either by the Constitution or by any law of Congress, it therefore remained under the protection of the state courts. Jefferson's project seems to have been to bring the subject of the present-

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ment before the General Assembly, and ultimately, by some legal process, whether against Iredell or the grand jurymen does not appear, before the state tribunals. The reasons for this course which he urged upon Monroe will contribute to explain his connection with certain other proceedings of state Legislatures, to which our attention will presently be called. "Were the question even doubtful," so he wrote, "that is no reason for abandoning it. The system of the general government is to seize all doubtful ground. We must join in the scramble, or—get nothing. Where first occupancy is to give right, he who lies still loses all."

As happens too often with champions of natural rights, in his eagerness to protect Cabell and the opposition representatives Jefferson seems quite to have forgotten the rights of every body else. The presentment of the grand jury, which had so excited his indignation, was either an official act within their province, or it was extra-official; in other words, a joint expression of opinion by so many individuals. If a proper official act, then it could not be questioned either in the Virginia General Assembly or in any state court. Suppose, on the other hand, that it was extra-official, yet surely the gentlemen composing the grand jury had as good a natural right to correspond with their fellow-citizens on their joint interests as Mr. Cabell or any other opposition representative.

Another proposition, still more extraordinary, was contained in the same letter. "It is of immense importance that the states retain as complete authority as possible over their own citizens. The withdrawing themselves under the shelter of a foreign jurisdiction"—meaning thereby the jurisdiction of the Federal courts—"is so subversive of order and so pregnant of abuse, that it may not be amiss to consider how far a law of *premu*

nire should be revived and modified, against all citizens who attempt to carry their causes before any other than the state courts in cases where those other courts have no right to their cognizance. A plea to the jurisdiction of the courts of their state, or the reclamation of a foreign jurisdiction, if adjudged valid, would be safe, but if adjudged invalid, should be followed by the punishment of *premunire* for the attempt." CHAPTER
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A *premunire*, by the English law, was a contempt of the king's authority by the introduction of a foreign power into the land, a crime invented for the restraint of the papal authority attempted to be exercised in England; and the punishments of it were, banishment, forfeiture of lands and goods, and pain of life or member. This offense and these punishments, or some modification of them, Jefferson proposed to revive as a safeguard against Federal usurpations, to be exercised by the state courts against every person who, in their judgment, should dispute their authority without cause; thus sacrificing to the maintenance of state rights the individual right of every suitor to test the authority of the tribunal before which he appears; a procedure well enough suited to such a republic as France, and to such ministers as Danton and Merlin, but a little odd in such an American friend of the people and of the Federal Constitution as Jefferson professed to be, holding, as he did, also, at the same time, the office of vice-president of the United States.

Shortly after the date of the above quoted letter, there occurred in Pennsylvania another noticeable attack upon the "natural right of free correspondence between citizen and citizen," proper to be noticed here, as having a direct bearing upon a celebrated act of the ensuing session of Congress on the subject of seditious libels. Yrujo,

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the Spanish minister, following in the French wake, had warmly remonstrated against the British treaty as unfair toward Spain, and inconsistent with the late Spanish treaty. Among other comments on this remonstrance, Cobbett's Gazette had dwelt on the subserviency in which Spain had been held by France ever since the Bourbon occupation of the Spanish throne, and had reprobated in severe terms the conduct of Charles IV., king of Spain, in making an ignoble peace with the murderers of his kinsman, Louis XVI., and so becoming "the supple tool of their most nefarious politics." "As the sovereign is at home," Cobbett continued, "so is the minister abroad; the one is governed like a dependent by the nod of the five despots at Paris, the other by the directions of the French agents in America. Because their infidel tyrants thought proper to rob and insult this country and its government, and we have thought proper, I am sorry to add, to submit to it, the obsequious imitative Don must attempt the same, in order to participate in the guilt and lessen the infamy of his masters." To this and to two or three other similar articles, one of which spoke of Yrujo as "half Don, half sans culotte," it is probable that Talleyrand had alluded when he complained, as we have seen, of the newspaper attacks upon France and "her allies" which the government of the United States suffered to be made without any attempt to suppress them. Yrujo himself also complained, and the government so far listened to him as to direct the attorney general to lay the matter before the grand jury of the Federal Circuit Court; and Cobbett, in consequence, was bound over by the district judge of Pennsylvania to appear at the ensuing term. But the Spanish minister much preferred to bring the matter before the state courts of Pennsylvania, not only as a speedier process, but because he relied

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with more confidence on the justice or the favor of the state bench. Chief-justice M'Kean, whose daughter Yrujo soon after married, had not himself entirely escaped Cobbett's shafts. Not willing to run the risk of a suit for damages, or even to hazard the result of an indictment, since in Pennsylvania the truth might be given in evidence, M'Kean adopted a contrivance for the punishment of Cobbett, founded on some old English precedents, but the legality of which was excessively doubtful. It was, indeed, sustained as legal by a decision of the Pennsylvania Court of Appeals some four years afterward; but no where else, by any formal decision of any court of common law, has any such doctrine ever been recognized; and even in Pennsylvania it was tacitly set aside by Chief-justice Tilghman within five or six years after the decision was made. In pursuance of this contrivance, about the same time that Cobbett was bound over in the United States Court, M'Kean issued a warrant against him, a copy of which he would not allow him to have, in which he was charged generally with having libeled M'Kean himself, Mifflin, Dallas, Jefferson, Monroe, Gallatin, and a number of other persons, and on which he was not only bound over to appear at the next criminal court, but was compelled to give security in four thousand dollars to keep the peace and be of good behavior in the mean time. Having thus put Cobbett under bonds, M'Kean with a view to their subsequent forfeiture took care to have a collection made of all articles obnoxious to the charge of being libelous, which in the interval appeared in his paper. He also took up Yrujo's case with much warmth, and speedily issued a second warrant, charging Cobbett with having published certain infamous libels on the King of Spain and his minister, and the Spanish nation, "tending to alienate their affections and

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regard from the government and citizens of the United States, and to excite them to hatred, hostilities, and war."

To the grand jury assembled at the criminal sessions held shortly after, M'Kean gave a remarkable, and, like all his judicial performances—for as a lawyer he has had but few rivals—a very able charge, almost exclusively devoted to the subject of libels. "When libels are printed," so he informed the jury, "against persons employed in a public capacity, they receive an aggravation, as they tend to scandalize the government by reflecting on those who are intrusted with the administration of public affairs, and thereby not only endanger the public peace, as all other libels do, by stirring up the parties immediately concerned to acts of revenge, but have also a direct tendency to breed in the people a dislike of their governors, and to incline them to faction and sedition." "These offenses are punishable either by indictment, information, or civil action; but there are some instances where they can be punished by a criminal prosecution only, as where the United States in Congress assembled, the Legislature, judges of the Supreme Court or civil magistrates in general, are charged with corruption, moral turpitude, base partiality, and the like, when no one in particular is named." "By the law of Pennsylvania, the authors, printers, and publishers of such libels are punishable by fine, and also a limited imprisonment at hard labor and solitary confinement in jail, or imprisonment only, or one of them, as to the court in its discretion shall seem proper, according to the heinousness of the crime and the quality and circumstances of the offender." "By this law and these punishments the liberty of the press (a phrase much used, but little understood) is by no means infringed or violated. The liberty of the press is indeed essential to the nature of a free state, but this

consists in laying no previous restraints upon publications, and not in freedom from censure for criminal matter when published. Every freeman has an undoubted right to lay what sentiments he pleases before the public; to forbid this is to destroy the freedom of the press; but if he publishes what is improper, mischievous, or illegal, he must take the consequences of his temerity. To punish dangerous and offensive writings, which, when published, shall, on a fair and impartial trial, be adjudged of a pernicious tendency, is necessary for the preservation of peace and good order, of government and religion, the only solid foundation of civil liberty. Thus the will of individuals is still left free; the abuse only of that free will is the object of legal punishment. Our presses in Pennsylvania are thus free. The common law in this respect is confirmed and established by the Constitution, which provides 'that the printing-presses shall be free to every person who undertakes to examine the proceedings of the Legislature or any part of government.' Men, therefore, have only to take care of their publications that they are decent, candid, and true; that they are for the purpose of reformation and not of defamation, and that they have an eye solely to the public good. Publications of this kind are not only lawful, but laudable. But if they are made to gratify envy or malice, and contain personal invectives, low scurrility, or slanderous charges, that can answer no good purposes for the community, but, on the contrary, must destroy the very ends of society—were these to escape with impunity, youth would not be safe in its innocence, nor venerable old age in its wisdom, gravity, and virtue; dignity and station would become a reproach, and the purest and best characters that this or any other country ever produced would be vilified and blasted, if not ruined.

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"If any person, whether in a public or private station, does injury to individuals or to society, ample redress can be had by having recourse to the laws and the proper tribunals, where the parties can be heard personally or by council, the truth can be fairly investigated, and justice be fully obtained; so that there can be no necessity nor reason for accusing any one of public or private wrongs in pamphlets or newspapers, or of appeals to the people under feigned names or by anonymous scribblers." "Every one who has in him the sentiments of either a Christian or a gentleman can not but be highly offended at the envenomed scurrility that has raged in pamphlets and newspapers printed in Philadelphia for several years past, insomuch that libeling has become a kind of national crime, and distinguishes us not only from all the states around us, but from the whole civilized world. Our satire has been nothing but ribaldry and Billingsgate; the contest has been who could call names in the greatest variety of phrases, who could mangle the greatest number of characters, or who could excel in the magnitude and virulence of their lies. Hence the honor of families has been stained, the highest posts rendered cheap and vile in the sight of the people, and the greatest services and virtue blasted. This evil, so scandalous to our government and detestable in the eyes of all good men, calls aloud for redress. To censure the licentiousness is to maintain the liberty of the press."

With the above statement of law and facts little fault is to be found. They were both sufficiently correct, and are quoted here for future reference. But it was a little strange that, while the above state of things had existed for several years past, especially in Philadelphia, Chief-justice M'Kean had seen no occasion till now to interfere. For years past this licentiousness of the press, so

vigorously painted and denounced, had been directed without remorse against Washington, against Hamilton, against Jay, Adams, and the Federal leaders generally, against the Federal administration, against the British government, the British nation, and the British ambassador. But Paine's letter to Washington, Callender's attacks upon Hamilton, the daily libels vomited forth by the Aurora, the labors of that paper week after week to excite against the British nation hatred, hostilities, and war, had called out no action on the part of the judge. All this time he had been silent; but within less than eight months after the establishment of a newspaper for the avowed purpose of retorting these libels by the publication of disagreeable and scandalous truths as to their authors and favorers, the publisher of that paper, by a most extraordinary, not to say illegal stretch of power, had been compelled to give securities to be of good behavior; and now this same partisan chief justice was straining every nerve to stimulate a grand jury to indict him for libel; not for libels, be it observed, against Mifflin, whom he charged with being a drunkard, a debauchee, and an insolvent debtor, who had fraudulently overdrawn to a large amount his account with the Bank of Pennsylvania; not for libels against M'Kean himself, accused of being engaged in constant brawls with his wife, going to the extent of blows given and returned, and so habitual a drunkard that, according to a memorial said to have been signed by most of the members of the Philadelphia bar, persons and property were not safe in Pennsylvania after dinner; not for libels against Dallas, Swanwick, M'Clenahan, Monroe, or Barney, or any other of the opposition leaders held up in various ways to contempt and ridicule—for all these charges had a foundation in fact too easily proved to make a prosecution expedient—but for a libel

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CHAPTER against his Catholic majesty, the King of Spain, and his
XII. minister Yrujo, accused of being tools of the French.

1797. "At a time," he tells the jury, "when misunderstandings prevail between the republics of the United States and France, and when our general government have appointed public ministers to endeavor their removal and restore the former harmony, some of the journals or newspapers in the city of Philadelphia have teemed with the most irritating invectives, couched in the most vulgar and opprobrious language, not only against the French nation and their allies, but the very men in power with whom our ministers are sent to negotiate. These publications have an evident tendency not only to frustrate a reconciliation, but to create a rupture and provoke a war between the sister republics, and seem calculated to vilify, nay, to subvert, all republican government whatsoever."

Remarkable tenderness for the characters of Barras and Merlin in a chief justice who had seen Washington, Jay, Hamilton, and Adams most shamefully abused without any public expression of feeling, if not, indeed, with a secret exultation! Remarkable anxiety lest Cobbett's publications should hazard the success of the negotiations then pending with France, in one who had seen with such perfect composure the efforts of the *Aurora* and kindred prints to defeat, not Jay's negotiation only, but the treaty itself after it had been made and ratified, and who had himself assisted in a proceeding on that occasion which had ended in burning the treaty before the British ambassador's door, not without great danger of a riot!

We come now to not the least remarkable part of this charge, the direct attack upon Cobbett personally. "Impressed with the duties of my station, I have used some endeavors for checking these evils by binding over the

editor and printer of one of them, licentious and virulent beyond all former example, to his good behavior, but he still perseveres in his nefarious publications; he has ransacked our language for terms of reproach and insult, and for the basest accusations against every ruler and distinguished character in France and Spain with whom we chance to have any intercourse, which it is scarce in nature to forgive; in brief, he braves his recognizance and the laws. It is now with you, gentlemen of the jury, to animadvert on his conduct; without your aid it can not be corrected. The government that will not discountenance may be thought to adopt it, and be deemed justly chargeable with all the consequences. Every nation ought to avoid giving any real offense to another. Some medals and dull jests are mentioned and represented as a ground of quarrel between the English and Dutch in 1672, and likewise caused Louis XIV. to make an expedition into the United Provinces of the Netherlands in the same year, and nearly ruined that commonwealth." It is worthy of remark how, in this part of his charge, M'Kean anticipated the complaints of Talleyrand, if, indeed, it was not this very charge by which those complaints were suggested. "We are sorry to find," the learned judge concluded, "that our endeavors in this way have not been attended with all the good effects that were expected from them; however, we are determined to pursue the prevailing vice of the times with zeal and indignation, that crimes may no longer appear less odious for being fashionable, nor the more secure from punishment for being popular."

In a long life of political warfare with his pen, Cobbett, by facing, at his own proper risk and cost, Lynch law and law of other kinds, assaults, mobs, actions, and indictments, did as much as any other man who ever

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lived, to vindicate, on both sides the Atlantic, "the natural right of free correspondence between citizen and citizen, on their joint interests, whether public or private;" and to such a man it is but a piece of justice to say that M'Kean's charge against him of being "licentious and virulent beyond all former example" was itself a false, if not a malicious libel. Between Cobbett and the Callenders, Baches, and other "scribblers," of whose productions for several years past the chief justice gave a description so disgusting, but, at the same time, so just, there was this remarkable difference—there was nothing about Cobbett of sneaking malice. He dealt in no damnable innuendoes, no base insinuations of charges which he did not dare to state openly, and which he himself knew to be false. Like all zealous men, he was often too precipitate in giving credit and circulation to injurious charges against those whom he hated; but he evidently relied on being able to substantiate the truth of all he published. His statements were made in clear and plain terms, with the names at length of all the parties concerned, so that if the charge were false, refutation was easy. If his language was frequently without any touch of politeness, and his allusions to private matters often impertinent, he did in all this but follow a fashion which Chief-justice M'Kean had allowed to establish itself in Philadelphia by a usage of several years; and in these very particulars Callender and Bache went as far beyond Cobbett as they fell short of him in vigor of understanding, keenness of sarcasm, loftiness of spirit, manly self-respect, and unflinching courage. And so the grand jury seems to have thought; for, in spite of M'Kean's charge, and his appearance before them as one of the witnesses, they returned ignoramus on the indictment laid before them—a fate presently shared by the in-

dictments laid before the grand jury of the Circuit Court. CHAPTER
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It was not entirely to politics that Cobbett confined himself. Another subject which he handled with cutting severity was Dr. Rush's method of treating the yellow fever. That singular disorder, which had made such ravages in Philadelphia in 1793, had appeared the next year in New Haven. In 1795 it broke out in New York, Baltimore, and Norfolk. In 1796 it visited Boston, Newburyport, and Charleston, in South Carolina. After an interval of four years, it reappeared again the present season with great virulence, in Philadelphia. A warm dispute had arisen among the doctors as to its origin. One party supposed it to be infectious, and to be brought from the West Indies. Rush and his partisans maintained that it was of local origin, produced by the accumulation of filth in the water-side streets of maritime towns. The locality of its origin seems to be now pretty generally agreed upon among medical men, though what its precise cause may be remains as doubtful as ever. Rush's opinion as to its origin, maintained, also, by Webster in an elaborate treatise on the history of pestilential disorders, was not without good results in a greater attention to cleanliness and ventilation. The Boston system of underground drainage, which contributes so much to the comfort and wholesomeness of that city, dates from the visitation of the yellow fever, which also furnished the occasion of the first attempts to supply Philadelphia with water from the Schuylkill for washing and cleansing the streets as well as for domestic use—a kind of enterprise in which that city preceded all other Anglo-American towns.

Rush's method of treating the disease was far more questionable than his theory of its origin. He recom-

CHAPTER XII. mended and adopted what physicians call an heroic treatment—making very free use of calomel and the lancet.

1797. Political prejudice—for Rush was reckoned to be somewhat of a French Democrat, or, at least, a political trimmer—had undoubtedly something to do with the unsparing ridicule with which Cobbett and Fenno attacked this method of practice, and which led first to a brutal assault by one of Rush's sons upon an aged physician, falsely suspected as the author of some of the articles; secondly, to a not very creditable attempt on the part of Rush himself to get up a prosecution, under the Pennsylvania statute on the subject of dueling, against this medical brother, because, while declining to accept a challenge from Rush's son, he sent one instead to the father, whom he regarded as the instigator of the assault; and, finally, to a libel suit on the part of Dr. Rush for damages, the result of which, two years after, drove Cobbett from America. It would seem, indeed, that Rush's practice had suffered from these assaults or from some other causes, since, in addition to his professorship in the medical school, he solicited, obtained from Adams, and held for the rest of his life the semi-sinecure office of Treasurer of the Mint.

The reappearance of the yellow fever produced quite a panic at Philadelphia. At one time the sickness was so great that the president proposed to exercise the power vested in him by an act passed shortly after the former visitation of the fever, of calling Congress together at some other place. But with the first frosts, and before the time appointed for the commencement of the session, the disorder had ceased. Some time elapsed, however, before a quorum of members ventured to make their appearance. Several vacancies in both houses had been filled by new members, among whom were Andrew

Jackson, of Tennessee, in the Senate, and in the House, Thomas Pinckney, of South Carolina, chosen from the Charleston district to fill the place of Smith, appointed minister to Portugal. 1797.

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Shortly before the meeting of Congress, news had arrived in America of the change of the French government by the expulsion of Carnot and Barthelemy from the Directory, and the banishment of Pichegru and some sixty other members of the Legislature, thus confirming the authority of Barras, and of the party at once the most violent and the most corrupt. It was also known, through the French newspapers, that the American envoys had reached Paris; but no letters had been received from them since their arrival in that city; nor was there any definite information as to their probable reception, except that the Aurora already gave out that reconciliation with France could only be obtained by money, or, at least, by an abandonment of all claims for indemnity.

The president's speech to Congress expressed his trust as to the mission to France, that nothing compatible with the safety, honor, and interests of the United States had been omitted, which might tend to bring the negotiation to a successful issue. Nothing, however, in the president's opinion, would tend so much to the preservation of peace and the attainment of justice as to make manifest that energy and unanimity, of which, on former occasions, the United States had given such memorable proof, by the exertion of those resources for national defense which a beneficent Providence had placed within their power. He therefore renewed his recommendations made at the opening of the preceding session. If a system of defensive measures was prudent then, it was still more prudent now that increasing depredations had strengthened the reasons for adopting it. Nor was the expedi-

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ency of such a system to be estimated by the probable issue of the present negotiation, or the likelihood of a temporary peace in Europe. Permanent tranquillity, he held it certain, would not soon be obtained; and in the present confusion of the sense of obligation and the excited violence of passion, no reasonable ground remained on which to raise an expectation, that a commerce without protection or defense would not be plundered. "The commerce of the United States," so the speech stated, "is essential, if not to their existence, at least to their comfort, their growth, prosperity, and happiness. The genius, character, and habits of the people are highly commercial; their cities have been formed and exist upon commerce; our agriculture, fisheries, arts, and manufactures are connected with and depend upon it. In short, commerce has made this country what it is, and it cannot be destroyed or neglected without involving the people in poverty and distress. Great numbers are directly and solely supported by navigation; the faith of society is pledged for the preservation of the rights of commercial and seafaring no less than that of the other citizens. Under this view of our affairs, I should hold myself guilty of a neglect of duty if I forbore to recommend that we should make every exertion to protect our commerce and to place our country in a suitable posture of defense, as the only sure means of preserving both."

Objections, he informed Congress, were still opposed by the Spaniards in Louisiana to the surrender of the posts on the Mississippi and the running of the boundary line; and earnest efforts had been made to shake the attachment of the neighboring Indian tribes, and to entice them into the Spanish interest. The commission under the Spanish treaty was in session; also the three commissions under the British treaty, of which the one on spoiliations had

already made several awards for the benefit of American merchants. Attention was also called to some provision for detecting and preventing the forgery of American papers, a contrivance by which foreign and belligerent vessels sought to avail themselves of the advantages of American neutrality, and which had the evil effect of exposing all American vessels to suspicion and seizure.

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A somewhat ambiguous and general answer to the president's speech was reported in the House, which passed without much of opposition or debate. Lyon again made his motion to be personally excused from waiting on the president; but even his brother Democrats were somewhat piqued at the reflection thus implied on their republicanism or their consistency, and this time his motion was peremptorily voted down by a large majority.

While all were anxiously waiting for further news from France, the earlier part of the session passed off very quietly. For a moment, indeed, this quiet was ruffled by the presentation of a petition from the yearly meeting held at Philadelphia of "the people called Quakers," in which they complained of the increase of dissipation and luxury in the United States, and of the countenance and encouragement given to stage-players, cock-fighting, horse-racing, and other vain amusements, notwithstanding the resolutions of the old Congress of 1774 to discourage all such extravagance and dissipation—a solemn covenant with the Almighty, made in the hour of distress, the fulfilment of which he was now calling for by the awful calamity of the yellow fever. This memorial further complained—and, indeed, that was its principal object—that certain persons of the African race, to the number of one hundred and thirty-four, set free by members of the religious society of Quakers, besides others whose cases were not so particularly known, had

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been reduced again into cruel bondage under the authority of an *ex post facto* law passed for that purpose by the State of North Carolina in 1777 (the same of which mention is made in a former volume of this history), authorizing the seizure and resale as slaves of certain emancipated negroes.

Any action upon this petition was vehemently opposed by Harper, who complained that this was not the first, second, nor third time that the House had been troubled by similar applications, which had a very dangerous tendency. This and every other Legislature ought to set their faces against memorials complaining of what it was impossible to alter.

Thacher, of Massachusetts, suggested in reply, that where persons considered themselves injured, they would not be likely to leave off petitioning till the House took some action upon their petitions. If the Quakers considered themselves aggrieved, it was their right and their duty to present their memorial, not three, five, or seven times only, but seventy times seven, until redress was obtained; therefore, gentlemen who wished not to be troubled again ought to be in favor of reading and a reference.

Lyon observed that a grievance was complained of which ought to be remedied, namely, that a certain number of black people who had been set at liberty by their masters were now held in slavery contrary to right; he thought that ought to be inquired into.

Rutledge would not oppose a reference if he were sure the committee would report as strong a censure as the memorial deserved; such a censure as a set of men ought to meet who attempt to seduce the servants of gentlemen traveling to the seat of government, and who are incessantly importuning Congress to interfere in a business

with which, by the Constitution, they have no concern. CHAPTER
At a time when other communities were witnesses of the XII.
most horrid and barbarous scenes, these petitioners were 1797.
endeavoring to excite a certain class to the commission
of like enormities here. Were he sure that this conduct
would be reprobated as it deserved, he would cheerfully
vote for a reference; but not believing that it would be,
he was for laying the memorial on the table or under the
table, that the House might have done with the business,
not for to-day, but forever.

Gallatin, by whom the memorial had been offered, maintained that it was the practice of the House, whenever a petition was presented, to have it read a first and second time, and then to commit, unless it were expressed in such indecent terms as to induce the House to reject it, or related to a subject upon which it had been recently determined by a large majority not to act. It was not best to decide under the influence of such passion as had just been exhibited, and that furnished an additional reason for a reference. He also vindicated the character of the Quakers against the aspersions in which Rutledge had very freely indulged.

Sewall suggested a third case, applicable, as he thought, to the present memorial, in which petitions might be rejected without a commitment, and that was when they related to matters over which the House had no cognizance, especially if they were of a nature to excite disagreeable sensations in a part of the members possessed of a species of property held under circumstances in themselves sufficiently uncomfortable. The present memorial seemed to relate to topics entirely within the jurisdiction of the states.

Macon declared that there was not a man in North Carolina who did not wish there were no blacks in the

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country. Negro slavery was a misfortune; he considered it a curse; but there was no means of getting rid of it. And thereupon he proceeded to inveigh against the Quakers, whom he accused not only of unconstitutional applications to Congress, but of continually endeavoring to stir up in the Southern States insurrection among the negroes.

Against these assaults on the petitioners Livingston warmly protested. There might be individuals such as had been described; but as against the body of the Quakers these charges were false and unjust. The scruples of the Quakers on the subject of war were relied upon as a help toward blocking the administration and preventing any hostile demonstrations against France, and that circumstance may in part explain the zeal of Livingston and others in their behalf.

Parker of Virginia, and Blount of North Carolina, warmly opposed the reference of the memorial. Nicholas felt as much as other Southern gentlemen on this subject, but as he thought the holders of slaves had nothing to fear from inquiry, he was in favor of a reference. So, also, was Smith of Maryland. Finally, after a very warm debate, the reference was carried, and a special committee was appointed, of which Sitgreaves was chairman, Dana, Smith of Maryland, Nicholas, and Schureman of New Jersey, being members. This committee, after hearing the petitions, subsequently reported leave to withdraw, in which the House concurred, on the ground, as set forth in the report, that the matter complained of was exclusively of judicial cognizance, and that Congress had no authority to interfere.

Another debate involving the subject of slavery occurred somewhat later. The president had suggested at the previous session the expediency of establishing a ter-

ritorial government over the population on the Lower Mississippi, hitherto under Spanish authority, but acknowledged by the recent treaty with Spain to be within the limits of the United States. There were in Natchez and its vicinity five or six thousand inhabitants, most of them of English origin, remains of the immigration just before the breaking out of the Revolutionary war, or settlers who had come in since upon Spanish invitation. Under a royal proclamation and a cession to her by South Carolina of the rights of that state under the Carolina charter, Georgia claimed the whole territory east of Louisiana, north of Florida, and south of Tennessee. The United States claimed, on the other hand, as the common property of the Union, all the territory south of an east and west line from the mouth of the Yazoo to the Chattahoochee; that territory having been annexed, prior to the Revolution, to the British province of West Florida; and having been ceded to the United States by the British treaty of 1783—a title lately made complete by the relinquishment, under the late Spanish treaty, of any claim to it on the part of Spain. Previous to the Spanish treaty, Georgia had offered to cede her claims to the southernmost portion of the territory on condition of being confirmed in possession of the residue; but the continental Congress had refused to accept this partial union, on the ground that Georgia ought to cede—to place her on a level with other states by which cessions had been made—all the territory west of the Chattahoochee. Such a cession of that whole wilderness, encumbered as it was by the claims of the land companies already mentioned, Georgia was now ready to make; but only on condition of being paid a large sum of money, and of an undertaking on the part of the United States to extinguish within a limited time the Indian title, ex-

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tending over two thirds or more of her reserved territory. To facilitate the negotiation of some such arrangement, an act was passed for the appointment of commissioners to adjust the conflicting claims of Georgia and the United States, and also to receive proposals from Georgia for the cession of her share of the South-western Territory, and at the same time to provide a government for the settlers on the Mississippi. Provision was also made by the same act for erecting all that portion of the late British province of West Florida within the jurisdiction of the United States—that is, the territory between the thirty-first degree of north latitude and a due east line from the mouth of the Yazoo to the Chattahoochee—into a government to be called the MISSISSIPPI TERRITORY, to be constituted and regulated in all respects like the Territory northwest of the Ohio, with the single exception that slavery would not be prohibited.

1798. While this section of the act was under discussion,
March 23. Thacher having first stated that he intended to make a motion touching the rights of man, moved to strike out the exception as to slavery, so as to carry out the original project of Jefferson, as brought forward by him in the Continental Congress, of prohibiting slavery in all parts of the Western Territory of the United States, south as well as north of the Ohio.

Rutledge hoped that this motion would be withdrawn; not that he feared its passing, but he hoped the gentleman would not indulge himself and others in uttering philippics against a usage of most of the states merely because his and their philosophy happened to be at war with it. Surely, if his friend from Massachusetts had recollected that the most angry debate of the session had been occasioned by a motion on this very subject, he

would not again have brought it forward. Such debates led to more mischiefs in certain parts of the Union than the gentleman was aware of, and he hoped, upon that consideration, the motion would be withdrawn. The allusion, doubtless, was to the advantage taken of these debates by the opposition to excite hostility against the Federal government in those Southern States in which its friends were at best but too weak.

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Otis very promptly responded to Rutledge in hoping that the motion would not be withdrawn; he wanted gentlemen from his part of the country to have an opportunity to show by their votes how little they were disposed to interfere with the Southern States as to the species of property referred to.

Thacher remarked, in reply, "that he could by no means agree with his colleague (Otis). In fact, they seldom did agree, and to day they differed very widely indeed. The true interest of the Union would be promoted by agreeing to the amendment proposed, of which the tendency was to prevent the increase of an evil acknowledged to be such by the very gentlemen themselves who held slaves. The gentleman from Virginia, (Nicholas) had frequently told the House that slavery was an evil of very great magnitude. He agreed with that gentleman that it was so. He regarded slavery in the United States as the greatest of evils—an evil in direct hostility to the principles of our government; and he believed the government had a right to take all due measures to diminish and destroy that evil, even though in doing so they might injure the property of some individuals; for he never could be brought to believe that an individual could have a right in any thing that went to the destruction of the government—a right in a wrong. Property in slaves is founded in wrong, and never can

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be right. The government must, of necessity, put a stop to this evil, and the sooner they entered upon the business the better. He did not like to hear much said about the rights of man, because of late there had been much quackery on that subject. But because those rights and the claim to them had been abused, it did not follow that men had no rights. Where legislators are chosen from the people and frequently renewed, and in case of laws which affect the interests of those who pass them, the rights of man are not likely to be often disregarded. But when we take upon us to legislate for men against their will, it is very proper to say something about those rights, and to remind gentlemen, at other times so eloquent upon this subject, that men, though held as slaves, are still men by nature, and entitled, therefore, to the rights of man—and hence his allusion to those rights in making the motion.

“We are about to establish a government for a new country. The government of which we form a part originated from, and is founded upon, the rights of man, and upon that ground we mean to uphold it. With what propriety, then, can a government emanate from us in which slavery is not only tolerated, but sanctioned by law? It has indeed been urged that, as this territory will be settled by emigrants from the Southern States, they must be allowed to have slaves; as much as to say that the people of the South are fit for nothing but slave-drivers—that, if left to their own labor, they would starve!

“But if gentlemen thought that those now holding slaves within the limits of the proposed territory ought to be excepted from the operation of his amendment, he would agree to such an exception for a limited period.”

No full report of this debate has been preserved. It would appear, however, that Varnum and Gallatin said something in favor of Thacher's amendment, while Giles and Nicholas, with Gordon of New Hampshire, opposed it. Only twelve votes were given in its favor. A large majority of the opposition were themselves slaveholders, while the Federal representatives of the North did not wish to offend their few confederates from Maryland and South Carolina, or to do any thing to add to the prejudices already so generally entertained in the South against the Federal party.

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Yet Thacher's opposition to the further spread of slavery was not entirely without fruits. A day or two after, Harper offered an amendment which was carried without opposition, prohibiting the introduction into the new Mississippi Territory of slaves from without the limits of the United States.

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Notwithstanding a provision that nothing in this act should operate in derogation of the rights of Georgia, a vehement opposition was made by the representatives from that State to the erection of the new territory, unless with a proviso that the consent of Georgia should first be obtained. To this it was answered that the State of Georgia had never been in possession of this territory; that it had remained under the Spanish government until recently ceded; that the right of the United States to it was clear, and that, whether clear or not, it was their duty to retain possession till the question of title was disposed of, and to provide, in the mean time, an efficient government for the settlers, distant, and unprotected, and surrounded by Indian tribes as they were: views which the House sustained by a vote of forty-six to thirty-four.*

* This case, it will be seen, had a very direct bearing on the ques-

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Much of the earlier part of the session was devoted to the consideration of private matters, mostly Revolutionary claims, which had come by degrees to constitute a formidable part of the business of the House. An act was passed authorizing grants of land to the refugees from Canada and Nova Scotia who had joined and adhered to the American cause during the Revolution. At a former session, in spite of a violent opposition, based on the alleged want of power in Congress for that purpose, a sum of money had been granted to the daughters of the Count de Grasse, reduced to poverty by the death of their father, who had been guillotined during the Reign of Terror. That sum had been exhausted, and a new act was now passed, in further acknowledgment of De Grasse's Revolutionary services, granting to his four daughters an annual pension for the next five years of \$400 each. Numbers of banished Frenchmen continued to arrive in America, among whom, at this time, were the young Duke of Orleans, afterward Louis Philippe, king of the French, and his two younger brothers. The joy was great in America at hearing of the release of Lafayette from the Austrian dungeon where he had so long been confined. By way of pecuniary relief to his family, Congress had already appropriated to their use the full amount of his pay as a major general in the American service.

The bill making provision for foreign intercourse became a sort of party test, and many speeches were made upon it. The opposition maintained that the regulation of this matter ought to be with Congress. Instead of
 tion a short time since (1850) so violently agitated, of the erection of the Territory of New Mexico, notwithstanding the claims of Texas; yet so inaccessibly wrapped up in records, pamphlets, and newspapers has the history of this period hitherto been, that this case, so exactly in point, was never referred to in that whole discussion

voting a gross sum as heretofore, leaving the application of it to the president, they wished to limit the number of missions, and to make a special appropriation for each. CHAPTER
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Much time was consumed in the business of Senator Blount's impeachment, which was protracted through the whole session without being brought to any point. Every obstacle was placed in the way of it by the opposition, who were not a little alarmed at the idea of the impeachment of members of Congress, for which, as they alleged, the Constitution gave no authority.

During the balloting for managers of this impeachment, a scandalous breach of decorum occurred, the first ever witnessed in Congress. The speaker, having left the chair, had taken a seat next the bar; Griswold and others were seated near, many members, as is usual on such occasions, being out of their proper seats. Standing outside the bar, and leaning upon it, Lyon commenced a conversation with the speaker in a loud tone, as if he desired to attract the attention of those about him. The subject was the Connecticut members, particularly their course in reference to the Foreign Intercourse Bill, which just before had been under discussion. Those members, Lyon said, acted in opposition to the opinions and wishes of nine-tenths of their constituents. As to their advocating salaries of \$9000 to the ministers abroad, on the ground that nobody would accept for less—that was false. They were all of them ready to accept any office, were the salary great or small. He knew the people of Connecticut, and that they were capable of hearing reason, having had occasion to fight them sometimes in his own district, when they came to visit their relations. "Did you fight them with your wooden sword?" asked Griswold, in jocular allusion to Lyon's having been cashiered, and to a story which had got

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1798. into the newspapers since his display of himself at the previous session, that he had been drummed out of the army on that occasion, and compelled to wear a wooden sword. Some other jesting remarks, made by the bystanders, had been received by Lyon in good part; Griswold's taunt either failed to reach his ear, or he affected not to hear it, for, without noticing it, he went on in the same strain as before, declaring that, blinded and deceived as the people of Connecticut were, if he could only go into the state, and manage a paper there for six months, he could open their eyes, and turn out all the present representatives. Griswold, meanwhile leaving the seat he had occupied, had taken a place beside Lyon, outside the bar, and in reply to this last sally, laying his hand on Lyon's arm as if to attract his attention, he remarked, with a smile, "You could not change the opinion of the meanest hostler in the state!" Lyon replied that he knew better; that he could affect a revolution in a few months, and that he had serious thoughts of moving into the state and fighting them on their own ground. "If you come, Mr. Lyon, I suppose you will wear your wooden sword!" so Griswold retorted, at which Lyon turned suddenly about, and spat in his face. Griswold drew back as if to strike, but, upon the interference of one or two of his friends, restrained himself and remained quiet. The speaker instantly resumed the chair, and, after a short statement of the foregoing facts, Scwall submitted a motion for Lyon's expulsion. This was referred to a committee of privileges, another resolution being meanwhile adopted, that if either party offered any violence to the other before a final decision, he should be held guilty of a high breach of privilege.

Lyon the next day sent a letter to the speaker, in Feb. 1. which he stated, that if chargeable with a disregard of

the rules of the House, it had grown wholly out of his ignorance of their extent, and that if through ignorance he had unwittingly offended, he was sorry to deserve censure. This letter was referred to the committee already appointed, who reported, the day after, a statement of facts, and along with it a resolution for Lyon's expulsion. To the passage of this resolution Lyon's Democratic friends made a most obstinate resistance. It was only by forty-nine votes to forty-four that the House consented to go into committee on the subject; and not content with the statement reported, it was insisted that the witnesses should again give their testimony before the Committee of the Whole. Lyon put in for the consideration of that committee a long statement in reference to the military censure to which he had been subjected, in which he threw upon the other officers, particularly the one in command, the blame of the desertion of the post for which he had been cashiered. He repeated the same thing in a speech against the resolution; but in defending his conduct he made use of a very vulgar and indecent expression, which itself, on Harper's motion, and by the casting vote of the speaker, was referred to the same Committee of the Whole as a new and separate offense. Among the witnesses who had given testimony as to the fact of Lyon's having been cashiered, and his patience at home under allusions to it, was Chipman, the new Vermont senator. By way of rebuttal, Lyon stated in his speech that he had once chastised Chipman for an insult; a statement which drew out from Chipman, in a letter addressed to the House, a full account of the affair referred to, placing Lyon in a most ridiculous light.

The adoption of the resolution for expelling Lyon was vehemently opposed by Nicholas and Gallatin on the frivolous and unfounded pretense which Lyon himself

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1798. had set up in excuse, that the session of the House was suspended at the time, and that expulsion, therefore, would be too severe a punishment. Though a good deal ashamed of Lyon's conduct, the opposition, in the close division of parties, were very unwilling to suffer even the temporary loss of a single vote. An attempt was made to substitute a reprimand for expulsion; but this
- Feb. 12. motion was lost, forty-four to fifty-two, the same number of votes presently given for the original resolution. But as a two thirds vote was necessary to expel, this resolution, though sustained by a majority, was lost.

To this very discreditable decision, and to the precedent thus established, may in a great measure be ascribed those personal affrays on the floor of the House by which that body has from time to time been disgraced. Indeed this action, or rather non-action, very speedily produced its natural fruits. As the House refused to avenge him or itself, Griswold took the matter into his own hands. For two or three days after the decision, Lyon kept out of the way. The first time that he made

Feb. 15. his appearance in the hall, prayers having been read, and many of the members being in their seats, but the House not yet called to order, Griswold walked up to him as he was reading in his seat, and commenced beating him over the head with a cane. Lyon also had a cane, but, in his confusion, instead of seizing it, he attempted to close with Griswold, who retired slowly before him, keeping him at arms' length, and still beating him. When, at length, they had cleared the seats, Lyon rushed to the fire-place and seized a pair of tongs, with which he approached Griswold, who now struck him a blow in the face which blackened his eye, closed with him, threw him, fell upon him, and still continued to pommel him over the head, till the discomfited Democrat was finally

relieved by some of his political friends, who seized Griswold by the legs and dragged him off; after which the speaker, who had looked calmly on all the while, assumed his seat and called the House to order. Just as that was done, Lyon, having been provided with a cane, approached Griswold, whose cane had slipped from his hand when he was dragged off of Lyon, and who at this moment was unarmed. Lyon made a feeble blow, which Griswold avoided by drawing back, when the call to order put an end to this discreditable scene.

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That portion of the opposition who had voted for expelling Lyon now called loudly for the expulsion both of Lyon and Griswold, and a resolution to that effect was offered and referred to the committee on privileges, notwithstanding the opposition of some of the Federalists, who remarked, with some malice, that it seemed very hard to include Lyon in this motion, since he had only been guilty of very quietly taking a severe beating. The committee reported against the resolution, and their report was sustained, seventy-three to twenty-one. An attempt was then made to obtain a vote of censure, but this was also lost by a small majority.

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Pending this affair, in a message covering certain documents transmitted by Charles Pinckney, governor of South Carolina, setting forth the violation of the neutrality of the United States by a French privateer, which had captured and burned a British vessel within the waters of Charleston harbor, the president had attempted to stimulate Congress to some measures for the protection of commerce. The privilege affair having been disposed of, and the House having resumed the discussion of the Foreign Intercourse Bill, the president sent another message giving information of the arrival of the first dispatches from the envoys in France. All these

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dispatches except the latest, dated January 8th, which gave notice of the impending decree for the forfeiture of all vessels having English merchandise on board, were in cipher, and it would take some time to get at their contents, as to which, however, it was briefly mentioned in this last dispatch that no hope existed of the reception of the envoys by the French government, or of their being able, in any way, to accomplish the object of their mission—statements so important that the president judged it expedient to lay them at once before the House. As soon as the other dispatches were deciphered,

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the president sent another message, informing Congress of the result to which he had arrived from a careful consideration of their contents. Though nothing seemed to have been wanting, either in the instructions to the envoys or in their efforts, he could see no ground of expectation that the objects of the mission could be accomplished on terms compatible with the safety, honor, and essential interests of the United States; or that any thing further in the way of negotiation could be attempted consistently with the principles for which the country had contended at every hazard, and which constituted the basis of our national sovereignty. He therefore reiterated his former recommendations of measures for the protection of "our seafaring and commercial citizens," "the defense of any exposed portion of our territory," "replenishing our arsenals, and establishing foundries and military manufactories," and the provision of an efficient supply for any deficiency of revenue which might be occasioned by depredations on our commerce. He had himself already taken one step toward defense by withdrawing the circular instruction to the collectors not to grant clearances to armed private vessels.

This message, as might naturally be expected, pro

duced a great excitement. It was the policy of the opposition, as developed in Jefferson's private correspondence, by keeping the country unarmed, to compel the acceptance of such terms as France might choose to dictate. To any humiliation on that score, the opposition leaders appeared perfectly insensible. Such humiliation would fall, according to their view, not on them who had always opposed the policy of the Federal government toward France, nor on the country, but on the administration alone; and the more the administration was humbled and mortified, the more surely would the road to power be open to the opposition. Jefferson, in a confidential letter to Madison, denounced the president's message as identical with war, in favor of which he could find no reason, "resulting from views either of interest or honor, plausible enough to impose even on the weakest mind." He could only explain "so extraordinary a degree of impetuosity" by reference to "the views so well known to have been entertained at Annapolis, and afterward at the grand Convention by a particular set of men"—meaning, doubtless, the establishment of a monarchy—"or, perhaps, instead of what was then in contemplation, a separation of the states, which has been so much the topic of late at the eastward"—a reference to a recent series of articles in the Hartford Courant newspaper, under the signature of "Pelham." The president's former message respecting protection to commerce he had described as "inflammatory;" the present message he denounced as "insane." But while thus suspicious and denunciatory as to the measures and intentions of his own government, Jefferson seems to have relied with a girl-like confidence, equal to that of Monroe himself, on the good faith and fair intentions of Talleyrand and the Directory. He proposed to meet the withdrawal of the

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executive prohibition of the arming of private vessels by enacting a legislative one ; and "as to do nothing and to gain time was every thing," that Congress should adjourn and go home to consult their constituents. "Besides gaining time enough by this to allow the descent upon England to have its effect here as well as there"—this was Bonaparte's famous descent, threatened but never made—"it will be a means of exciting the whole body of the people from the state of inattention in which they are ; it will require every member to call for the sense of his district, either by petition or instruction ; it will show the people with which side of the House their safety as well as their rights rest, by showing them which is for war and which for peace, and their representatives will return here invigorated by the avowed support of the American people." Jefferson had complained in a former letter that Dayton, the speaker, had gone completely over to the Federal side, enticed, as he said, by hopes of being appointed Secretary of War. The wavering conduct of "other changelings and apostates," as he called them, was also very unsatisfactory. But, with his naturally sanguine temperament, he still hoped that the opposition might continue to command in the House a majority of at least one or two over "the war-hawks."

The Federalists, conscious of their weakness in the House, had hitherto kept very quiet. Indeed, the larger part had continued to flatter themselves that the extraordinary envoys might yet succeed in bringing about a satisfactory arrangement. The news of the proposed decree authorizing the capture of all vessels of whatever nation having goods of British origin on board—a decree totally inconsistent with neutral rights—and the simultaneous news from the West Indies of the fitting out of French privateers to cruise against all American vessels

whatever, had excited their indignation, but without adding to their strength; for as the opposition members represented constituencies which owned very little shipping, they seemed to regard these threatened depredations with great unconcern. But the president's message, communicating the total failure of the mission and his recommendations to arm, struck upon the ear of the House like the note of a war-trumpet. Jefferson acknowledged that its effect was great; "exultation upon the one side and certainty of victory, while the other is petrified with astonishment."

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An attempt was immediately made in the Pennsylvania Legislature, then in session at Philadelphia, to operate on Congress by the introduction of resolutions deprecating any offensive measures. But these resolutions were voted down, thirty-eight to thirty-three. Another attempt, shortly after, to get the Quakers to come forward with a petition for peace, did not meet with much better success.

March 20.

The House already had under discussion, previously to the receipt of the president's message, a bill appropriating means for the equipment of the three national frigates authorized at the late session. This bill was passed at once, and also another continuing in force the prohibition of the export of arms. The Senate committee to which the president's message was referred soon reported a bill, which passed immediately with only three votes against it, to enable the president to purchase or lease one or more cannon founderies. The three opposers were the two senators from Tennessee, one of whom was Andrew Jackson, and Tazewell of Virginia, who had taken upon himself the leadership of the opposition in that body. This was followed up by another bill, authorizing the president to hire or purchase, in ad-

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dition to the three frigates, sixteen vessels, not to carry more than twenty-two guns each, and to be armed and fitted out as ships of war. The suggestion of a temporary embargo was made by Marshall, of Kentucky ; but this was voted down, only five senators rising in its favor.

March 27.

Meanwhile the opposition members had deliberated on the unpromising aspect of their affairs, and the result was, not a motion to adjourn, as Jefferson had proposed, to which, indeed, the Senate would never have consented, but three resolutions offered by Sprigg, of Maryland, when the House went into committee on the president's message. The first of these resolutions purported that, under existing circumstances, it was not expedient for the United States to resort to war against the French republic ; the second, that the arming of merchant vessels ought to be restricted ; while the third, as if by way of tub to the whale, admitted that the coast ought to be fortified. The first resolution, it was thought, would prove very embarrassing to the Federalists, and it had therefore been offered, as agreed upon in the opposition caucus, in Committee of the Whole, to avoid the previous question (by which, according to the then existing usage, it might have received a quietus without any direct vote upon it) ; and in Committee of the Whole on the State of the Union, lest it might be got rid of by the rising of the committee without leave asked to sit again.

Harper suggested that this resolution might be agreed to unanimously. For himself, he was quite willing to declare that it was not expedient to go to war with any nation. Sitgreaves remarked that, as the existing disputes with France might probably lead to a war, it would be better to have no resolution on the subject. Until war was declared, we should remain at peace without the help of any resolution, to which Baldwin replied—

and this was doubtless the position agreed upon in the preliminary caucus—that as the president and others had declared a war inevitable, it belonged to the House, if they did not think so, to declare the contrary.

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Otis suggested that, if the mover of the resolution would adopt the constitutional phrase “declare war” instead of “resort to war,” there would be no difference of opinion. But to this alteration Sprigg declined to accede, observing, significantly, that the resolution, as offered, had not been the work of a moment, and that he was not disposed to allow any change in it. Dayton moved to strike out the words “against the French republic.” If any resolution were passed, which he thought unnecessary, why not make it general? Why specify France more than any other nation, unless, indeed, the object was to have peace with France and not with other nations.

Finding it not so easy to turn the enemy's position, Harper resolved to meet it in front. “Being of opinion,” he remarked, “that the resolution amounted to nothing, out of a wish to gratify the mover he had been willing to let it pass. But he had never said, and would not say that war was the worst thing that could happen to the country. Submission to the aggressions of a foreign power he thought infinitely worse. If by means of this resolution gentlemen meant to prevent the country from being put into a state of defense—if they meant by it to effect an entering wedge to submission, he trusted they would find themselves mistaken. The question at present was not one of war, but of defense. No two questions were more distinct; and he believed the distinction was well understood by the American people. If gentlemen confounded these two questions, and were determined to take no measures of defense lest they should lead to war, let them say so openly.”

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Giles and Nicholas insisted, as Baldwin had done, that the president having declared in substance that war existed, it was the duty of the Legislature, to which the power of declaring war belonged, to set the matter right by means of the present resolution.

Brooks, of New York, wished gentlemen to distinguish between the two kinds of war, offensive and defensive. He was ready to declare against offensive war, and to submit to small injuries rather than make defensive war. At the same time, he was unwilling to say that he was not ready to defend his country against the attacks of any foreign power whatever. Rutledge took the same ground. Sewall insisted that the present state of things ought to be considered a state of war, not declared by us, but declared against us by the French republic. "Though we lack spirit to defend ourselves, let us not say so! Though we refrain from acting, let us not make a formal declaration that we receive injuries with thankfulness! The proposed resolution goes even further. Its declared object is, in this moment of danger, to separate this House from the president. The mover considers the president's message a declaration of war, and this resolution is to be a declaration of peace! As to the president, this is an assumption altogether false. He *has* neither declared war himself, nor called upon Congress to declare it. To agree to this resolution would be to give countenance to the assertion of the French that we are a people divided from our government. Since we are not equal to offensive measures—he wished to God we were!—he was in favor of defensive measures. Our weakness and the divisions which had appeared in our councils, had invited these attacks, and he trusted we should now unite to repel them."

Gallatin admitted that the conduct of France furnished

justifiable ground of war, but he denied that it amounted to war in fact, and therefore it became necessary to say whether we would go to war or not. We must expect, if we went to war, to encounter all its expenses and other evils. If we would remain at peace, we must, in a certain sense, submit—that is, we must submit to have a number of vessels taken, but this he thought very different from the submission spoken of on the other side. Gentlemen need not be so much alarmed about French influence. There had been a great enthusiasm for France, but that feeling was much diminished in consequence of her late conduct toward us. What course the interest and happiness of the country required was a mere matter of calculation. If he could separate defensive war at sea from offensive war, he should be in favor of defensive war; but as he could not make that distinction, he was in favor of peace measures. Giles took the same ground. He deprecated war of any kind, unless the country were actually invaded.

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“Would to God,” said Thomas Pinckney, “it were in our power, by this or any resolution, to avert war and maintain peace. In questions of war there are always two parties, one of whom is generally the aggressor and the other passive. In the present case this country is the passive party, and any declaration, therefore, on our part, could have but little effect. Individuals or nations, led by interest or passion to pursue certain measures, are not easily diverted from their object; and if the French are actuated by either of these motives, no declaration of ours will prevent a war. A resolution like the present would rather accelerate the evil. If declarations could have availed, they have not been wanting. Indeed, too much had been rested on such declarations, nothing having been done for defense.

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"How different was the course now proposed from that adopted in 1794, during the misunderstanding with England. Abundant measures were then suggested and carried into effect for countervailing the losses which our citizens experienced and for bringing Great Britain to reason. He had expected something similar now; he should not have been surprised had some member, fired with the injuries we have received, proposed a declaration of war. Instead of that, smarting as we are under injuries, our commerce bleeding at every pore, and our country deeply humiliated, we are called upon to say to France, 'You have done every thing to injure, insult, and degrade us, but we have deserved it, and will not resist. Whatsoever injuries you may inflict, we will not go to war.'"

Giles was convinced that if we carried our preparations for defense beyond our own limits, instead of gaining glory or honor, we should meet with nothing but disgrace. If any object was to be subserved by naval preparations, it was the protection of our commerce with Great Britain; but two acts of Parliament, recently passed, were likely to take that trade, in a great measure, from us. The allusion here was to the passage of certain acts, under the right reserved in Jay's treaty, for counteracting the American differential duties in favor of American shipping, acts over which the opposition somewhat prematurely exulted, as likely, so soon as peace took place in Europe, to prove ruinous to the American ship-owners. Under these circumstances, Giles thought we had no sufficient object for incurring so much risk. The apprehension of war already began to cause disagreeable effects in his part of the country. Produce had fallen in price, and the sale was very dull at that. The proposed resolution, if agreed to, would quiet the public

mind. But it would have no good effect, so it was said, on the French Directory. He did not know that it would ; but it would have no bad effect, and might have a good one. He did not think that body quite so abandoned as some gentlemen represented ; and he proceeded to apologize for the partition of the Venetian territories, which Pinckney had just before cited in proof of the inexorable rapacity of the French republic, not to be softened by any humiliation or concession, the very example, as it happened,—though neither Pinckney nor Giles then knew it—which had been held up in France to frighten the American envoys.

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Harper, in a very animated speech, charged home upon the opposition, and upon Giles in particular, the strange contrast between their present attachment to peace, and their eagerness, in 1794, to plunge into a war with England, both the one and the other growing out of devotion to France ; and he assailed with great energy that abject spirit which would abandon all American property beyond the limits of our territory, all our commerce, from which was derived five sixths of our revenue, lest, in defending it, we might give offense to the French republic !

Giles, nothing daunted—indeed, he was a person not to be abashed by any thing—made a labored attempt to prove himself to have been as much the friend of peace in 1794 as now. Finding this rather a difficult task, he soon branched off into a multiplicity of recriminations on a variety of subjects ; among others, Cobbett's newspaper, which he denounced with great energy ; the president's neglect to lay the whole of the recent dispatches before the House ; the British ambassador's connection with Blount and his projects ; and an imagined arrangement for a more intimate connection with Great Britain, of which country he predicted the total ruin

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and downfall within the space of two years. "Perhaps gentlemen may ask," he said, "what will you do if France carries her injuries further? I would have us draw ourselves within our shell sooner than go to war. I would, though I do not pledge myself to do it, indemnify our commercial fellow-citizens for their losses. I am now, and always have been, for peace."

- March 29. Harper having replied to Giles with great severity, Nicholas threatened to come to the aid of his suffering colleague, when the debate, which was growing very personal and acrimonious, was suddenly cut short, much to the chagrin of the opposition, by the offer of a resolution by way of answer to Giles' speech, calling upon the president for copies of the recent dispatches. Thus somewhat unexpectedly met, Giles and Smith of Maryland insisted upon striking out that part of the call which left it in the president's discretion to withhold any part of the papers asked for, while Livingston claimed to have the instructions also. Bayard objected that, as the negotiation was not yet terminated, it would not be wise, by insisting on the instructions, to inform the French of our ultimatum—for secrecy, if the papers were communicated, would be out of the question. It was deemed best, however, to silence the opposition by modifying the call as they had proposed; and the next day the president sent in all the papers called for, and, in addition, some subsequent dispatches from the envoys, bringing the history of the negotiation to the beginning of the year. Nothing was withheld except the names and personal description of Hottinguer and Bellamy, Talleyrand's agents, to whom secrecy had been promised by the envoys, and the name also of M. Hauteval, who had acted as Talleyrand's go-between with Gerry, lest the mention of it, though he had received no promise of
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secrecy, might lead to the discovery of the other two. CHAPTER
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Wherever the names of these persons occurred in the
dispatches, the letters X, Y, and Z had been substituted. 1798.
The president requested that, in the first instance, these
papers might be considered in secret session, but he left
it to the discretion of each house to publish them or not,
as they might see proper. Their publication, which was
very soon agreed to by both houses, produced as power-
ful an effect upon the people as the reading of them had
done upon all the more moderate members of the con-
gressional opposition. Nothing, indeed, could shake the
leaders; but so soon as it was seen, what these papers
proved beyond question, that the Directory had demanded
a *douceur* for themselves, and a sum of money for the
republic, as the only conditions on which they would
treat, the cry of "millions for defense, not a cent for
tribute," spread enthusiastically through the country,
and the opposition both in Congress and without dwindle
d down at once to an evident minority.

Even Jefferson admitted, in his confidential correspond- April 6
ence with Madison, that "the first impressions" from
these papers were "very disagreeable and confused," and
that the arguments used by Talleyrand's secret agents
"were very unworthy of a great nation (could they be
imputed to it), and calculated to excite disgust and in-
dignation in Americans generally, and alienation in the
Republicans particularly, whom they had so far mistaken
as to suppose their first passion to be attachment to
France and hatred of the Federal party, and not love of
their country." It was "this little slanderous imputa-
tion" which, in his opinion, had caused the publication
of the dispatches. Still, however, he was not without
consolation. "The first impressions with the people will
be disagreeable, but the last and permanent one will be,

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1798. that the speech in May is now the only obstacle to accommodation, and the real cause of war, if war takes place. And how much will be added to this by the speech in November, is yet to be learned. It is evident, however, on reflection, that these papers do not offer one motive the more for our going to war. Yet such is their effect on the mind of wavering characters, that I fear that, to wipe off the imputation of being French partisans, they will go over to the war measures so furiously pushed by the other party. It seems, indeed, as if they were afraid they should not be able to get into a war till Great Britain shall be blown up, and the prudence of our countrymen, from that circumstance, have influence enough to prevent it. The most artful misrepresentations of the contents of these papers were published yesterday, and produced such a shock in the Republican mind as had never been seen since our independence. We are to dread the effects of this dismay till their fuller information." This was written before the dispatches were published. As to the effect of "fuller information," Jefferson found himself very much mistaken. The perusal of the dispatches made it sufficiently apparent to all candid men that the French were attempting to take advantage of the party divisions of the country, and of the supposed weakness and fears of the administration, to reduce the United States to a tributary position; and that the president's speech was only made use of as a pretense, for which something else would have equally served had that speech never been delivered. Even of those who were ready, with Giles and Gallatin, to surrender the whole shipping of the nation an unresisting prey to French privateers, many were hardly willing to go the length of paying an additional tribute in money, or, for the sake of avoiding a breach with France, to abandon

the position of neutrals, to break the English treaty, and to risk a war in that quarter. Nor did everybody believe, with Giles and Jefferson, that the British government would certainly be overthrown within two years.

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"The public mind," wrote Jefferson a week afterward, "appears still in a state of astonishment. There never

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was a moment in which the aid of an able pen was so important to place things in their just attitude. On this depends the inchoate movement in the Eastern mind, and the fate of the elections in that quarter, now beginning, and to continue through the summer. I would not propose to you such a task on any ordinary occasion; but be assured that a well-digested analysis of these papers would now decide the future turn of things, which are at this moment on the career." This was the second urgent appeal to Madison to come forward as the apologist of the French Government and the assailant of his own. "You will see in Fenno," Jefferson had written a week before, "two numbers of a paper signed Marcellus. They promise much mischief, and are ascribed, without any difference of opinion, to Hamilton. You must, my dear sir, take up your pen against this champion. You know the ingenuity of his talents, and there is not a person but yourself who can foil him. For Heaven's sake, then, take up your pen, and do not desert the public cause altogether."

April 8.

Strong evidence was speedily exhibited, in the action of Congress, of that reflux of opinion and feeling of which Jefferson so bitterly complained. Sprigg's resolutions were abandoned in despair, and the bills already mentioned for the purchase or lease of cannon foundries and the procuring of additional armed vessels were speedily passed, the former with an amendment appropriating \$800,000 for the purchase of cannon, small arms, and

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additional military stores. For the purchase of vessels under the other bill, \$950,000 were appropriated; and for the management of naval affairs, a separate naval department was now first established. A second regiment of artillery was added to the military establishment, and \$250,000 were appropriated for harbor fortification. It was also provided that any of the states from which Revolutionary balances were due should be credited with so much toward those balances as they might expend, under the president's direction, in erecting fortifications within their own limits. To aid in the defense of harbors, the president was further authorized to purchase and equip ten galleys. The Senate, meanwhile, had passed and sent to the House a bill for raising a provisional army of twenty thousand men. Unable to make any effectual combined resistance to these measures of defense, the baffled and astonished leaders of the opposition each did what he could after his own fashion. Livingston and Nicholas, in hopes to frighten the people by the expense, adopted the policy of voting for the highest sums proposed for whatever military objects. Gallatin took the opposite ground. His eyes had been suddenly opened to the dependence of the revenue on commerce. A war would dry up that resource, and he insisted that, before voting money, the House ought to provide the necessary ways and means.

Once, indeed, the opposition rallied, and succeeded in reducing the number of additional armed vessels from sixteen to twelve; but another motion that these vessels should not be employed as convoys, failed after a warm debate, by the decisive vote of fifty to thirty-two; after which the Federalists had every thing much their own way.

Out of doors, the Aurora and other organs of the op-

position argued that it was better to pay the money demanded, the *douceur* included—the odium of which it was attempted to shift from the Directory to Talleyrand —than to run the risk of a war. Why not purchase peace of France as well as of the Indians and Algerines? In Congress, nobody dared to lisp such a proposal, though some of the opposition did complain that the peace of the country had been hazarded by the indiscreet publication of the dispatches. Some petitions, also, were got up out of doors against arming or any hostile measures. But the impulse the other way was overwhelming. The grand jury of the Federal Circuit Court for Pennsylvania set the fashion of an address to the president, applauding his manly stand for the rights and dignity of the nation—an example speedily followed in every direction. Philadelphia was suddenly converted once more, as during the first and second Congress, to friendship for the Federal administration. All the neutral newspapers, and several others which had leaned strongly to the opposition, came out in support of the president's policy. Besides an address from five thousand of the citizens, presented to the president, the young men adopted a separate address of their own, and went in a body to carry it, many of them wearing the black cockade, the same which had been worn in the American army during the War of Independence. This was done by way of defiance and response to the tricolored cockade worn by all Frenchmen since Adet's famous proclamation, and by not a few American citizens also, even by some companies of militia, who wished to exhibit by this outward sign their extreme devotion to the French republic. Hence the origin of the term "Black Cockade Federalist," which became ultimately an epithet of bitter party reproach. Such was the warmth of party

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1798. feeling, that several who wore this emblem became the objects of violent personal assaults. But the zeal for mounting it was only increased by the rage which it inspired in the more violent Democrats—a term restricted at this time to the warm partisans of France, and as yet chiefly employed by the Federalists, along with the term Jacobin, as an epithet of reproach. The song of “Hail, Columbia!” written by the younger Hopkinson, had, under the excitement of the moment, a tremendous run, and, though totally destitute of poetical merit, is still kept in existence by the force of patriotic sentiment. “Adams and Liberty,” written by Paine of Boston, the son of another signer of the Declaration of Independence, though now almost forgotten, enjoyed, like “Hail, Columbia!” an immense popularity, both songs being sung at the theatres and elsewhere with rapturous encores.

April 23–25. In the midst of this excitement occurred the election in New York for state officers and members of Congress. Jay was re-chosen governor by a majority of upward of two thousand over Chancellor Livingston; but in the election of members of Congress the opposition was more successful. They succeeded in choosing six out of the ten members, including Edward Livingston, re-elected from the city of New York by a majority nearly as large as that given for Jay throughout the state. The young men of the city of New York, following the example of Philadelphia, having met to concert an address to the president, an unfortunate event which grew out of this meeting added new fury to party excitement. In the *Argus*, the opposition organ, edited by Greenleaf—the same printer whose office had been mobbed ten years before on account of his opposition to the adoption of the Federal Constitution—Brockholst Livingston un-

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dertook to ridicule the persons concerned in getting up the meeting, selecting, among other objects of his satire, a Mr. Jones, who happened not to have been present. Jones gave him a caning in consequence, which led to a challenge and duel, in which that unfortunate gentleman was killed—a result which occasioned a great excitement at the time, and which left on Livingston's mind a gloom from which he never recovered, though afterward rewarded for his party services by high political preferment.

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Nor was it to Philadelphia and New York that these testimonies of zeal were confined. Addresses poured in from every side, and the spirited replies of the president, who was now in his element, served, in their turn, to kindle and sustain the blaze of patriotic indignation. Appealing, as in the days of the Revolution, to religious feeling, he issued a proclamation for a day of national fasting and prayer, and, much to the chagrin of the leaders of the opposition, the appointment was very generally observed.

May 8.

Protected against the responsibility of voting by his fortunate position as president of the Senate, in which the Federalists had a decided majority, Jefferson could afford to be firm in his private correspondence. But the Virginia members of the House begun to waver, and several of them to seek safety in flight under pretence of attending to their private affairs. "Giles, Clapton, Cabell, and Nicholas have gone," so Jefferson wrote to Madison, "and Clay goes to-morrow. Parker has completely gone over to the war party. In this state of things, they will carry what they please. One of the war party, in a fit of unguarded passion, declared some time ago that they would pass a citizen bill, an alien bill, and a sedition bill. Accordingly, some days ago, Coit laid a

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motion on the table for modifying the citizen law. Their threats pointed at Gallatin, and it is believed they will endeavor to mark him by this bill. Yesterday Hillhouse laid on the table of the Senate a motion for giving power to send away suspected aliens. This is understood to be meant for Volney and Collot. But it will not stop there when it gets into a course of execution. There is now only wanting to accomplish the whole declaration before mentioned, a sedition bill, which we shall certainly soon see proposed. The object of that is the suppression of the Whig presses. Bache has been particularly named. That paper, and also Carey's, totter for want of subscriptions. We should really exert ourselves to procure them, for if these papers fall, Republicanism will be entirely brow-beaten." "The popular movement in the Eastern States is checked as we expected, and war addresses are showering in from New Jersey and the great trading towns. However, we still trust that a nearer view of war and a land tax will oblige the great mass of the people to attend. At present the war-hawks talk of Septembrizing, deportation, and the examples for quelling sedition set by the French executive. All the firmness of the human mind is now in a state of requisition."

Bache's paper, for which Jefferson expressed so much anxiety, was at this moment, during Bache's temporary absence, under the editorial charge of Callender, who filled it with all sorts of falsehoods and slanders against the leading Federalists. His personal adventures, not long after, gave occasion to much sport among the Federal editors. Though quite disgusting in his manners and habits, he was invited by Mason, the Virginia senator, to honor him with a visit at his house, near Alexandria, which he accordingly did shortly after the term

ination of the session of Congress. Soon after his arrival there, he was taken up in the purlieus of a neighboring distillery, drunk and dirty, and carried before two justices of the peace, under the Virginia vagrant act, on suspicion of being a runaway from the Baltimore penal wheelbarrow gang; nor could he obtain his release till Mason, his host, produced before the justices the letters of naturalization which the terrors of the alien law had induced Callender to take out, testifying, also, that he was a person of good character. Not long after, under the patronage of some leading Virginia politicians, Callender established at Richmond an opposition paper called the Examiner. Sufficient reasons will shortly appear for having been thus particular as to his personal history.

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The present Federal majority in the House was not so much owing to any accession of their numbers,—though some few, like Parker, did change their politics, while others, like Smith of Maryland, voted occasionally with the Federalists,—as to absence or inaction on the other side, several opposition members omitting to vote. But while most of the other leaders thus surrendered at discretion or retired from the field, Gallatin still stood firm, resisting, by all the arts and manoeuvres of an adroit politician, everything proposed by the Federalists, and maintaining to its fullest extent the policy recommended by Jefferson of patiently submitting to the insults and injuries of France without the least effort at resistance or defence.

The Senate bill for raising a provisional army underwent some modifications to meet the objections of the opposition in the House. In the shape in which it was finally passed it authorized the president at any time within three years, in the event of a declaration of war against the United States, or of actual invasion of their

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territory by a foreign power, or imminent danger of such invasion before the next session of Congress, to enlist ten thousand men (half the number originally proposed), to serve for a term not exceeding three years, and to be entitled to a bounty of ten dollars, half of it on enlisting, and the other half on joining their corps. As a substitute for the other ten thousand, the president was authorized to accept the services of such volunteer corps as might offer, the whole to be organized as cavalry, artillery, and infantry, according to the exigencies of the service, with a suitable number of major generals conformably to the existing military establishment. He was also authorized to appoint a lieutenant-general, and an inspector with the rank of major-general. No officer was to have any pay except while in actual service, and all might be discharged, together with the soldiers, whenever the president might deem the public safety to permit it.

The opposition complained loudly of the vast discretion thus given to the president, and they denied that any danger of invasion existed. It was argued, on the other side, that Victor Hugues, the French commissary in the Carribee Islands, might land at any time on the coast of the Southern States with five or six thousand of his enfranchised black soldiers from Guadaloupe, thereby endangering a servile insurrection. Indeed, who knew how soon a detachment of the fleet and army collected at Bordeaux and Brest, nominally for the invasion of England, might suddenly appear, perhaps under Bonaparte himself, on the American coast?

The bill for a provisional army was speedily followed up by another, which was strongly opposed as placing the country in an actual state of war, and by which the president was authorized to instruct the commanders of

the ships of war of the United States to seize and bring into port, to be proceeded against according to the law of nations, any armed vessel which might have committed depredations on American ships, or which might be found hovering on the American coast for the purpose of committing such depredations, and to retake any American ship taken by such vessels.

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Meanwhile the House had under discussion a bill for amending the naturalization law, the "citizen's bill" alluded to in the above-quoted letter of Jefferson's. The greater part of the immigrants to the United States since the adoption of the Federal Constitution had been either Frenchmen whom political troubles had driven from home, and most of whom, even those who had been obliged to fly because they had been charged with being aristocrats, still remained warmly attached to their native country,—the military glory and victories of the French republic having served, even in their minds, to veil its injustice and its crimes,—or else Englishmen, Scotchmen, and Irishmen, who had espoused ultra Republican opinions, and who, in flying from the severe measures of repression adopted against them at home, brought to America a furious hatred of the government and institutions of Great Britain, and warm admiration and hearty good wishes for Republican France. Many of them, in fact, had been engaged in schemes more or less illegal, such as that of the United Irishmen, for co-operating with expected aid from France in the overturn of the British government. There were some among these immigrants, such, for example, as Priestley, of unblemished character and noble aims, however enthusiastic they might be, and, on some points, mistaken in their politics; but a large number were desperate and violent men, whose idea of freedom seemed to be the unrestrain-

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ed indulgence of their own fierce passions and hatreds. Many were persons of considerable literary qualifications; indeed, several of them had fled, like Callender, to escape punishment for alleged seditious libels against the British government. Having been journalists or pamphleteers at home, they found employment here in that capacity, and a very large proportion of the journals in the Middle and Southern States were edited by persons of this description. In admiration for France and hatred of Great Britain, they strongly sympathized with the ultra Democratic party, whose passions their writings contributed not a little to embitter and inflame; and having obtained by naturalization the rights of citizenship, they led off among the fiercest opponents of the national administration, all as voters, and some as candidates. No objection was made by any body to the enjoyment by foreigners of all rights except political ones; but the government of the country, it was thought by many, ought to be in the hands of the native citizens. Harper wished to provide that none except natives should enjoy the rights of citizenship. Otis suggested that the object in view might be sufficiently obtained by depriving naturalized citizens of the right to hold office. But to both these propositions the decisive objection was made, that the naturalization of foreigners and their holding office were things contemplated in and provided for by the Federal Constitution, so that nothing remained except to diminish the facility with which immigrants from abroad might obtain the character of citizens.

In addition to restraints upon the facility of naturalization, it was also thought necessary, as a part of the system of defense then under consideration, to vest a power somewhere to send out of the country such foreign residents as might reasonably be suspected of co-opera-

ting with external enemies. Alarm on this score was by no means entirely groundless. Talleyrand was believed to have acted during the latter part of his residence in the United States as a spy for the French government, and others of the exiled French were objects of a similar suspicion. The late attempts to set on foot French expeditions in Georgia and the West were not forgotten. Davis, the representative from Kentucky, stated that the commissions issued on that occasion were yet in existence, and that a certain Frenchman, resident in Kentucky, through whose hands they had passed, was still very busy in alienating the affection of the people from the United States. Indeed, it was strongly suspected, and probably not without reason, that Volney had not been engaged in exploring the Western country solely with scientific views. Like Micheaux, the botanist, a few years before, he had, perhaps, been employed as a French government agent to obtain information; and possibly too in forming connections of which advantage might be taken in case of a rupture with the United States, to procure a dismemberment from the Union of the trans-Alleghany settlements, and their junction with Louisiana, which it was believed that France already had or soon would re-acquire. Along with the late wide additions to her European borders, might not France wish again to re-establish her American empire? thus finally carrying out those projects of French dominion in America indulged in for a century or more preceding the treaty of 1763, but of which the fortune of war had compelled an abandonment.

On this subject of aliens three bills were passed. The first was an amendment of the Naturalization Act, extending the necessary previous residence to fourteen years, and requiring five years previous declaration of intention

CHAPTER to become a citizen, instead of the former and present
XII. requirements of five years in the one case and three

1798. years in the other. Alien enemies could not become citizens at all. A register was to be kept of all aliens resident in the country, who were to report themselves under certain penalties; and in case of application to be naturalized, the certificate of an entry in this register was to be the only proof of residence whenever that residence commenced after the date of this act.

A second act, of which the continuance was limited to two years, gave the president authority to order out of the country all such aliens as he might judge dangerous to the peace and safety of the United States, or suspect to be concerned in any treasonable or secret machinations.

By a third act, in case of war declared, or an invasion of the United States, all resident aliens, natives or citizens of the hostile nation, might, upon a proclamation to that effect, to be issued at the president's discretion, be apprehended and secured, or removed.

To the first and third of these acts no concerted opposition seems to have been made. The second, which became familiarly known as the *Alien Act*, was vigorously opposed as an unconstitutional interference with the right secured to the existing states to admit, prior to 1808, the importation or emigration of any such persons as they might think proper; and also as an unconstitutional interference with the right of trial by jury. But, notwithstanding this opposition, the bill passed the House forty-six to forty.

Neither this act nor the other respecting alien enemies was ever actually carried into effect, the president seeing no occasion to exercise the discretion intrusted to him. But several Frenchmen took the hint, Volney among the

rest, and two or three ship-loads of them speedily left the country. CHAPTER
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Before the final passage of either of these acts, another step had been taken toward an open rupture by an act suspending all commercial intercourse with France and her dependencies. 1798.
June 12.

Simultaneously with the passage of this act, Marshall landed at New York on his return from France. He proceeded at once to Philadelphia, where he was received with great éclat. The Secretary of State and many private carriages, escorted by the city cavalry, went out to meet him. On his reaching the city, the bells rang, and an immense procession collected to escort him through the streets. Shortly after, he was entertained by the Federal members of Congress at a public dinner. A message from the president communicated to Congress the return of Marshall, also Talleyrand's letter to Gerry requesting him to renew the negotiation, Gerry's refusal to do so, his official letter to the State Department, stating his intention to remain at Paris, and the letters of recall instantly dispatched to him; and it concluded with the following emphatic declaration: "I will never send another minister to France without assurances that he will be received, respected, and honored as the representative of a great, free, independent, and powerful nation." June 16.
June 21.

By a usage, now introduced for the first time, ten thousand extra copies of these dispatches, and of the papers before communicated, including the instructions to the ministers and their whole correspondence, were ordered to be printed for distribution among the people. For this innovation there was, however, a particular reason. Talleyrand's letter to the envoys, in reply to their long memorial on the wrongs of the United States—that letter in which he assumed for France the place of the

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injured party, and offered to treat with that one of the envoys supposed to be most favorable to the French republic—had been transmitted to the United States, and had actually appeared in print in Bache's *Aurora* before a copy of it or of the envoys' reply to it had been received by the American government. The publication in America of the previous dispatches, giving an account of the unofficial intercourse with Talleyrand's private agents, Hottinguer and Bellamy, seems not to have been at all anticipated in France; and the project in forwarding Talleyrand's letter to the *Aurora* evidently was to preoccupy the public ear by an appeal to the American people, in continuation of those already made by Genet and Adet, and in Monroe's lately published book, against the obstinacy, ingratitude, and hostility toward France of the American government, and of two, at least, of the three envoys.

In the publication of this dispatch, and the circumstances attending it, the Federalists saw fresh proof, not only that Bache and his paper, the most accredited organ of the opposition, were mere tools—perhaps purchased tools—of France, but also of a secret correspondence and intercourse between the French Directory and a faction in the United States, relied upon by the French as a means of forcing the American government to submit to their exactions. Another incident which happened about this time gave new force to those suspicions. Dr. Logan, of Philadelphia, grandson of the famous Secretary Logan, who had been the friend and confidential agent of Penn, a Quaker, a benevolent visionary, an enthusiastic admirer of the French republic, whose zeal, influence, and large inherited city property had contributed not a little to carry Philadelphia over to the opposition, departed suddenly and mysteriously for France. He seems to have

gone pretty much on his own suggestion, under the idea that he might somehow contribute to the preservation of peace ; but as he chose to take letters of introduction from Jefferson instead of passports from the Department of State, and as he affected a deal of secrecy and mystery, strong suspicions arose that he had gone to France not merely on his own responsibility, but as the authorized envoy of the leaders of the opposition, perhaps to solicit a French force to aid in overturning the existing government, and in placing authority in the hands of Jefferson, Madison, Monroe, Burr, Gallatin, and the rest of the patriots.

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Very small matters at such times of excitement are sufficient to produce a great effect ; and still another alarm was created by the discovery, or alleged discovery, of a lodge of United Irishmen in Philadelphia, the object of whose secret machinations was imagined to be the overthrow of the government of the United States.

Patient and quiet submission to what they deemed injuries and injustice were virtues of which the opposition had made but a faint exhibition whenever the conduct of Great Britain or of their own government had been in question. Hence the exceeding meekness of spirit which they displayed in submitting to the aggressions of France seemed to the Federalists not very explicable on any theory consistent with their patriotism or even with their integrity. But for us, who coolly view matters at a distance, it is sufficiently easy to explain the conduct of the opposition without any such derogatory suppositions. That hatred of Great Britain, the fundamental principle of the Republican party, and a natural horror of any intimate connection with her, such as was almost sure to result from a war with France ; the mistaken idea, very much cherished among the opposition,

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that, after all, it was the British manufacturers who were the main sufferers by the French depredations, joined, it is probable, to a little envy on the part of the Southern members, who composed the bulk of the opposition, at the rapid accumulation of commercial wealth at the North—these motives are quite enough to account for their conduct; especially when we add the well-known obstinacy of party spirit, which did not readily admit of retraction by those so deeply pledged to the side of France, as well by their passions as by their political interests.

This antipathy to Great Britain, the main foundation upon which the one party stood, was by no means without its influence on the feelings and conduct of the other. The idea of an intimate alliance with Great Britain, though it began to be favorably entertained by a small portion of the Federalists, was yet exceedingly distasteful to the great mass of the party, and received but little encouragement from those members of it who saw Great Britain from the nearest point of view. King, minister at the court of London, doubted the stability, and disliked the spirit of the British government. "Be assured," wrote John Trumbull, late secretary to Jay, and now umpire of the commission on British spoliation, "there exists in this country no cordial esteem for ours. There are those in whose bosoms still rankle the memory of former disappointments—men still in power, who detest the principles of our Revolution, and lament its success; who look upon that event as the great cause of the present dissolution of the ancient systems of Europe, and who rejoice to see us in a quarrel with those whom they regard as the only supporters we had, looking, perhaps, to the happy day when the two sister republics shall sting each other to death."

The opposition professed to hope great things from Gerry's remaining at Paris. Indeed, they had private dispatches of their own. Barlow, in a confidential letter to his brother-in-law Baldwin, filled with abuse of Washington, Adams, Gouverneur Morris, and the late envoys, including even Gerry himself, who was spoken of in terms by no means respectful, had yet held out the hope that Gerry alone, without the others, by not standing on etiquette, and by consenting to pay a round sum of money, might be able to appease the terrible republic. The Federalists, on the other hand, saw in Gerry's remaining in Paris only new proof of the dangerous arts of French diplomacy; and the minister who had thus been influenced to separate himself from his colleagues was denounced, in no measured terms, as little short of a traitor.

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The president's message was immediately followed up by the passage of an act authorizing merchant vessels—until such time as the conformity of the French to the law of nations should be announced by instructions issued by the president—to defend themselves by force against any search, seizure, or restraint on the part of any vessel under French colors; and to subdue and capture, as good prize, any vessel attempting such search or seizure; and to retake any vessel seized by the French, with benefit of salvage.

June 28.

A subscription having been opened in the principal towns towards building or purchasing additional ships of war, the president was authorized to accept such vessels, and to issue six per cent. stock to indemnify the subscribers. Stock was subsequently issued under this act to the amount of \$711,700. Even in the infant city of Cincinnati, a sum was subscribed toward equipping a galley for the defense of the Mississippi River

June 30.

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1798. Another act soon followed, declaring the French treaties void, those treaties, as the preamble set forth, having been "repeatedly violated on the part of the French government, and the just claims of the United States for reparation of the injuries so committed having been refused, and their attempts to negotiate an amicable adjustment of all complaints between the two nations repelled with indignity."

July 8. Two days after, the president was authorized to give instructions to the commanders of the public armed vessels, and to grant commissions to private armed vessels, to capture any French armed vessels anywhere met with; but these instructions were not to extend to the capture of unarmed merchant ships, of which, indeed, there were but very few afloat under the French flag. The three frigates, the *Constitution*, the *United States*, and the *Constellation*, so long fitting out, were now at length equipped and ready for sea. One or two sloops of war of the additional armament, with several armed cutters, had already sailed for the protection of American commerce against French privateers hovering on the coast.

July 16. A further sum of \$600,000 was appropriated toward equipping three new frigates, as a part of the additional naval armament, which, by another act, had been increased from twelve to twenty-four vessels, to include six frigates, twelve sloops of war, and six smaller vessels. The enlistment of a marine corps of about nine hundred men, officers included, was also authorized.

The place of Secretary of the Navy, declined by George Cabot, was given to Benjamin Stoddert, of Maryland. The officers for the infant navy had been selected from the merchant service. Among those already appointed, and afterward greatly distinguished, were Charles Stew-

art, Isaac Hull, John Rodgers, William Bainbridge, and the younger Decatur. To the elder Decatur had been given the command of the sloop of war Delaware, and having put to sea, he soon returned with the first prize captured from the French, a privateer mounting twenty guns, which just before had been plundering an American vessel.

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While these preparations were made for defense on the sea, further precautions were deemed necessary against the danger of a French invasion and a slave insurrection.

The president was authorized to appoint and commission

June 22.

forthwith such officers of the provisional army as he might deem necessary; also field officers to organize, train, and discipline such volunteer corps as might offer their services under the provisional army act; but no officers were to be entitled to pay till actually employed.

An appropriation was made of \$400,000 for the purchase of thirty thousand stand of arms, to be deposited at suitable points, and sold to the state governments for the use of the militia, or to the militia-men themselves.

July 6.

By another act, the regiments of the existing regular army, two of artillery (including the additional one authorized at the present session), and four of infantry, were augmented to seven hundred men each; and the president was further authorized to enlist twelve additional regiments of infantry, with six troops of dragoons, to serve, unless sooner discharged, during the existing difficulties with France. This would raise the regular army to about thirteen thousand men, to be commanded by two major generals, an inspector general with the rank of major general, and four brigadier generals.

July 10

These preparations for defense would require large sums of money. A statement made by the Secretary of the Treasury to the Committee of Ways and Means, es-

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estimated the ordinary annual expenses of the government, including interest on the debt, at seven millions of dollars, and the accruing revenue, after an allowance for a falling off in consequence of French depredations, at eight millions; but of this surplus half would be required to meet a loan of \$100,000, granted early in the session to the commissioners of the Federal city, and two temporary loans about to fall due to the United States Bank. The present emergency seemed to justify a direct tax, a method of raising revenue always strongly insisted upon by the opposition; and the House resolved thus to raise two millions of dollars. The act, as finally passed, after much discussion as to the details, directed that the amount assigned to each State, should be levied on slaves between the ages of twelve and fifty, to be taxed half a dollar each, and on dwelling-houses, arranged in nine classes, according to value, the rate of taxation to increase from one dollar each, on those not exceeding \$500 in value, to three hundred dollars, on those valued at upward of \$30,000; so much of the proportion of any State as might not be satisfied by these two taxes to be levied on lands. The necessary valuations were to be made by commissioners, the States being divided for that purpose into convenient districts; and the amount was to be collected by the existing collectors of internal revenue. The president was authorized to anticipate the receipts from this tax by borrowing two millions on the credit of it, at a rate of interest not exceeding six per cent.; and as still more money might be needed, he was further authorized to borrow five millions more, on the best terms he could, the right of repayment not to be postponed for a longer term than fifteen years.

To provide against internal as well as external foes,

Lloyd of Maryland, pending the progress of these war-like measures, obtained leave in the Senate to bring in a bill to define more precisely the crime of treason, and to define and punish the crime of sedition. The first section of this bill, as originally introduced, declared the people of France enemies of the United States, and adherence to them, giving them aid and comfort, to be treason, punishable with death. The second section related to misprison of treason. The third section did not materially differ from the first section of the act as finally passed, of which an analysis will presently be given. By the fourth section of this bill of Lloyd's any person who, by writing, printing, publishing, or speaking, should attempt to justify the hostile conduct of the French, or to defame or weaken the government or laws of the United States by any seditious or inflammatory declarations or expressions, tending to induce a belief that the government or any of its officers were influenced by motives hostile to the Constitution, or to the liberties or happiness of the people, might be punished by fine or imprisonment, the amount and time being left blank in the draft.

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Hamilton no sooner saw this bill in print than he wrote at once a letter of caution. It seemed to him exceedingly exceptionable, and such as, more than any thing else, might endanger civil war. "Let us not establish tyranny," so he continued: "energy is a very different thing from violence. If we make no false step we shall be essentially united, but if we push things to extremes we shall then give to faction body and solidity."

The bill did not pass the Senate, where it was carried by twelve votes to six, without undergoing considerable alterations. The two first sections were struck out entirely. The others were modified, but without any very essential change

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When the bill came down to the House, Livingston attempted to cut the matter short by moving its rejection. This led to a very warm and acrimonious debate, in which the character of the press was freely discussed, many extracts from the *Aurora* being cited by way of example. Livingston's motion was rejected, forty-seven to thirty-six; but in Committee of the Whole, on motion of Harper, and by the casting vote of the speaker, an entirely new section was substituted for the second (the fourth of the original draft), by which the character of the bill was essentially changed. Bayard then proposed a section allowing the truth to be given in evidence, and this, too, was carried, as was also a limitation of the act to the end of the next Congress. These amendments did not prevent a very warm struggle on the third reading of the bill. Nicholas, who had now resumed his seat, Macon, Livingston, and Gallatin, spoke against it, Otis, Dana, and Harper for it. It was finally carried, forty-four to forty-one.

The first section of this act, presently so famous as the *Sedition Law*, made it a high misdemeanor, punishable by fine not exceeding \$5000, imprisonment from six months to five years, and binding to good behavior at the discretion of the court, "for any persons unlawfully to combine and conspire together, with intent to oppose any measures of the government of the United States, directed by proper authority, or to impede the operation of any law of the United States, or to intimidate or prevent any person holding office under the government of the United States from executing his trust," or with like intent "to commit, advise, or attempt to procure any insurrection, riot, unlawful assembly, or combination." The second section subjected to a fine not exceeding \$2000, and imprisonment not exceeding two

years, the printing or publishing "any false, scandalous, and malicious writings against the government of the United States, or either house of the Congress, or the president, with intent to defame them, or to bring them into contempt or disrepute, or to excite against them the hatred of the good people of the United States, or to stir up sedition, or with intent to excite any unlawful combination for opposing or resisting any law of the United States, or any lawful act of the president, or to excite generally to oppose or resist any such law or act, or to aid, abet, or encourage any hostile designs of any foreign nation against the United States;" but in all prosecutions under this section, the truth of the matter stated might be given in evidence, as a good defense, the jury to be judges both of law and fact. The act was to continue in force till the fourth of March, 1801.

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Gallatin's opposition to this law was natural enough, since he would certainly have been held responsible, under the first section, had it then been in force, for his share in stirring up that resistance to the excise law which had ended in producing the Whisky Insurrection. Yet against that part of the law no very weighty objections were urged. It was against the second section—that for punishing the publication of seditious libels—that the arguments of the opposition were chiefly directed. The weight due to these arguments will be considered in another place; it is sufficient to suggest here that the act was a temporary one, passed at a moment of threatened war, and while the government was assailed in print with a malice and ferocity scarcely paralleled before or since; publications principally made by foreign refugees—as to whom it was not wonderful if they cared nothing for the country except to use it as an instrument of the political passions which they had

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The press, and particularly the newspaper press, had rapidly attained a degree of influence such as hitherto had never been known. At the commencement of the Revolution there had been in the United States less than forty newspapers, and between that period and the adoption of the Federal Constitution the number had rather diminished. The precise number when the Sedition Law was passed there is no means of ascertaining, but it exceeded a hundred. Philadelphia had eight daily papers, the first of which (Poulson's Daily Advertiser) had been established in 1784; New York had five or six dailies, Baltimore two or three. Boston, at this time, and for several years after, was content with semi-weeklies and weeklies, of which there were five or six; one attempt had been made to support a daily paper; but, after a short trial, it had been abandoned. It was a rare thing that any of the papers, even in the cities, had an editor distinct from the printer and publisher. One of the first papers established on that plan was the *Minerva* of New York, a daily paper set up in 1794, of which the name had lately been changed to that of *Commercial Advertiser*. This, the ablest paper in the country on the Federal side, was edited with equal talent and moderation by Noah Webster, the afterward distinguished lexicographer. Out of New England, the publishers of newspapers were principally foreigners, and such was especially the case with the opposition prints.

Whatever might be their defects and deficiencies in

other respects, the newspapers of the day had one re-
deeming feature in able essays communicated to their
columns by such men as Hamilton, Madison, Ames,
Cabot, and many others, who took that method of oper-
ating on the public mind. In the half century from
1765 to 1815, the peculiar literature of America is to be
sought and found in these series of newspaper essays,
some of them of distinguished ability, and as character-
istic of that period as the Spanish ballads are of the time
and country in which they were written. Rich jewels
now and then glittered on the dung-heap, but the edi-
torial portion of the papers, and no small part of the
communications also, consisted, too often, of declamatory
calumnies, expressed in a style of vulgar ferocity. The
epithets of rogue, liar, scoundrel, and villain were bandied
about between the editors without the least ceremony.
For a graphic character of the American press at that
time, reference may be had to the already quoted charge
of that distinguished Republican, Chief-justice M'Kean ;
to which may be added, what he does not mention, that
the government and officers of the United States had
been for years the objects of full seven-eighths of the
outrageous ribaldry of which he complained.

Yet the newspapers of that day exercised an individ-
ual influence over the minds of their readers very far
beyond that of the so much abler journals of our times.
The power and influence of the press as a whole, and its
importance as a political agent, has very greatly in-
creased, but the effect which any individual journal can
produce has in an equal degree diminished. In those
days the Aurora, for instance, penetrated to many local-
ities in which no other printed sheet ever made its ap-
pearance. There were many who never saw any other
newspaper; and its falsehoods and calumnies produced

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all the effect natural to an uncontradicted statement of fact. At present the mischief that can be done by falsehood and misrepresentation is comparatively limited, detection and exposure following too close.

Another circumstance, also, should be taken into consideration before deciding too peremptorily upon the policy of the Sedition Law. That act was not supposed, by those who enacted it, to create any new offenses, or to impose any new punishments. Though the point had not yet come before the full bench of the Supreme Court, and though at a subsequent period, and after a complete change of judges, it was decided the other way, the opinion had been expressed on circuit, and was understood to be held by all the judges, Chase only excepted, that, independently of any authority expressly conferred by statute, the Federal courts possessed a common law jurisdiction over offences against the United States, corresponding to the common law jurisdiction exercised by the state courts. The criminal jurisdiction of the state courts embraced two distinct classes of crimes—statute offenses, the nature and punishment of which were expressly defined by some statute, and common law offenses, as to which no statute provision existed, but which the courts, notwithstanding, had been accustomed to punish from time immemorial by fine and imprisonment. Now among these common law offenses, punishable as such in all the states, were libel and sedition; and what the common law as to libel was will be found stated in M'Kean's charge above referred to. The same common law jurisdiction had been claimed for the Federal courts. Upon this claim had been founded the late attempt to indict Cobbett for a libel on the Spanish minister; and under the same supposed authority proceedings had been lately commenced against Bache himself

Had this doctrine been well founded—nor was any express decision made to the contrary till fourteen years afterward—the Sedition Act was remedial and alleviative of the rigor of the existing law, since it not only limited the amount of fine and imprisonment, which by the common law were discretionary with the court, but in the case of seditious libels allowed also the advantage of giving the truth in evidence—a thing not permitted by the common law, and hitherto introduced only in the states of Pennsylvania, Delaware, and Vermont, and that by special constitutional provision.

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Even in that very objectionable shape in which the bill came down from the Senate, it did but clothe with the form of law what had been the universal practice of the Committees of Safety at the commencement of the Revolution. There had been at that moment no hesitation in suppressing, by means as prompt as severe, any opposition, whether by writing or speaking, to the new revolutionary governments; and among the earliest enactments after the declaration of independence, had been laws for that purpose—a species of legislation in which Virginia had taken the lead, one of her acts of 1776 having served in part as a model for the Sedition Law. If these state acts were to be excused on the ground of necessity, and of the impossibility of allowing free discussion at a moment when the existence of the nation was itself at stake—an excuse very promptly admitted by the most ultra of the opposition for the severe measures of the French Directory in the suppression of anti-Republican journals—the friends and supporters of the Federal administration, by whose votes the Sedition Law was passed, might claim the benefit of a similar apology. Party spirit was fast rising to the pitch of civil war. To the excited minds of the Federalists the conduct of the

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opposition began to appear even more reprehensible than that of the Tories at the commencement of the Revolution. The Tory opposition of that time did but seek to maintain a colonial dependence which had long existed, while the exactions to which they urged submission had at least some color of constitutional right. The French Tories, for so the opposition began now to be designated, seemed bent upon reducing the United States into a dependence on France as new as it was degrading; and by their apparent willingness to submit to unrestrained depredations and to forced loans, they seemed ready to surrender in substance that very point of exterior taxation which had caused the revolt from British rule. Compared with the piratical depredations now made under French authority, what had been the old restrictions of Great Britain on the commerce of the colonies? What was a tax on tea, glass, and paints, compared with requisitions at the pleasure of the Directory? To the Federalists it seemed lamentable indeed that the terrible struggle of the Revolution should terminate at last, not in actual independence, but in the mere substitution of France as the mother country in place of Great Britain. On the other hand the opposition, not less excited, vehemently retorted the charge of Toryism by accusing the government of an intention to restore the country to a state of at least semi-colonial dependence on Great Britain.

The extent to which the opposition leaders were disposed to push matters, may be judged of by a letter written by John Taylor, of Caroline, late one of the Virginia senators, and since his resignation of that post, the leader of the dominant majority in the Virginia House of Delegates. It was time, so Taylor thought, "to estimate the separate mass of Virginia and North Carolina with

a view to their separate existence." Jefferson, to whom this letter had been shown, suggested to Taylor some reasons why the idea should not be pushed. "It is true," so he wrote, "that we are completely under the saddle of Massachusetts and Connecticut, and that they ride us very hard, cruelly insulting our feelings as well as exhausting our strength and our substance. Their natural friends, the three other Eastern states, join them from a sort of family pride, and they have the art to divide certain other parts of the Union, so as to make use of them to govern the whole. This is not new; it is the old practice of despots to use a part of the people to keep the rest in order; and those who have once got an ascendancy, and possessed themselves of all the resources of the nation, their revenues and offices, have immense means for retaining their advantage. But our present situation is not a natural one. The Republicans through every part of the Union say that it was the irresistible influence and popularity of General Washington, played off by the cunning of Hamilton, which turned the government over to anti-Republican hands, or turned the Republicans chosen by the people into anti-Republicans. He delivered it over to his successor in this state, and very untoward events since, improved with great artifice, have produced on the public mind the impressions we see. But still, I repeat, this is not the natural state. Time alone would bring round an order more correspondent to the sentiments of our constituents. But are there not events impending which will do it within a few months—the crisis with England, the public and authentic avowal of sentiments hostile to the leading principles of our Constitution, the prospect of a war in which we shall stand alone, land tax, stamp tax, increase of public debt, &c.? Be this as it may, in every free and

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deliberating society there must, from the nature of man, be opposite parties, and violent dissensions and discords, and one of these, for the most part, must prevail over the other for a longer or shorter time. Perhaps this party division is necessary to induce the one party to watch and to delate to the people the proceedings of the other. But if, on a temporary superiority of the one party, the other is to resort to a scission of the Union, no Federal government can ever exist. If to rid ourselves of the present rule of Massachusetts and Connecticut we break the Union, will the evil stop there? Suppose the New England States cut off, will our natures be changed? Are we not men still to the south of that, and with all the passions of men? Immediately we shall see a Pennsylvania and a Virginia party arise in the residuary confederacy, and the public mind will be distracted with the same party spirit. What a game, too, will the one party have in their hands by eternally threatening the other that unless they do so and so they will join their Northern neighbors? If we reduce our Union to Virginia and North Carolina, immediately the conflict will be established between the representatives of these two states, and they will end by breaking into their simple units. Seeing, therefore, that an association of men who will not quarrel with each other is a thing which never yet existed, from the greatest confederacy of nations down to a town meeting or a vestry—seeing that we must have somebody to quarrel with, I had rather keep our New England associates for that purpose than to see our bickerings transferred to each other. They are circumscribed within such narrow limits, and their population is so full, that their number will ever be the minority, and they are marked, like the Jews, with such a perversity of character as to constitute from that circumstance

the natural division of our parties. A little patience, and we shall see the reign of witches pass over, their spells dissolved, and the people recovering their true right and restoring their government to its true principles. It is true that in the mean time we are suffering deeply in spirit, and incurring the horrors of a war, and long oppression of enormous public debt. But who can say what would be the evils of a scission, and when and where they would end? Better keep together as we are, haul off from Europe as soon as we can, and from all attachments to any portion of it; and if they show their powers just sufficiently to hoop us together, it will be the happiest situation in which we can exist. If the game runs some time against us at home, we must have patience till luck turns, and then we shall have an opportunity of winning back the principles we have lost, for this is a game where principles are at stake. Better luck, therefore, to us all, and health, and happiness, and friendly salutations to yourself." Yet in spite of the good advice contained in this letter—at once a remarkable specimen of Jefferson's hatred and jealousy of New England and of his political sagacity—we shall find him within a few months so carried away by passion as to be planning and setting on foot a scheme of state resistance to Federal authority, which, if pushed to its natural results, could only have ended in a scission of the Union.

Simultaneously with the new energy exhibited by Congress, the spirit of resistance to French aggression kept on rising out of doors. Addresses to the president continued to pour in. Numerous volunteer companies enrolled themselves as a part of the provisional army. The Legislatures of the four Eastern states, at their summer sessions, successively declared their approbation of the president's policy and their resolution to

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support it. The General Court of Massachusetts proposed so to amend the Constitution of the United States as to disqualify all naturalized citizens from holding office, a proposal concurred in by five other states. The fourth of July was every where celebrated by the Federalists with great enthusiasm. The black cockade was very generally mounted. There were symptoms of the same spirit even in Virginia. Marshall, on his return to Richmond, was affectionately received, and the northern part of that state, at least, seemed likely to break away from the hitherto absolute control of the opposition. Indications of the same kind appeared in North Carolina. Jefferson looked anxiously for an adjournment as affording the opposition the only chance to rally. "To separate Congress now," he wrote, "will be withdrawing the fire from under a boiling pot." The wished-for adjournment came at last, but it did not immediately produce all the consequences which Jefferson had hoped.

June 21.

July 16.

Among so many measures of merely temporary importance, two acts were passed at this session permanent in their operation and philanthropic in their character. Under one of these acts, debtors of the United States held in execution, on proof to the satisfaction of the Secretary of State of their inability to pay, and of having attempted no concealment or fraudulent conveyance of their property, were to be discharged from prison ; but the judgment was to remain good against their property ; nor was the act to apply to cases of imprisonment for any fine, forfeiture, or penalty, or of breach of trust.

The other act authorized the detention of twenty cents per month from the wages of all seamen, to be paid over to the collectors of the ports where the ships might enter on their return voyage, toward a fund for the erection and support of hospitals for the relief and comfort of mer-

chant seamen—a fund out of which hospitals have since been erected at most of the principal ports. CHAPTER
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In the course of the session a resolution had passed the Senate authorizing Thomas Pinckney to accept the presents which, according to an old diplomatic usage, had been tendered to him by the courts of Madrid and London at the terminations of his missions thither, but which, on account of the clause in the Constitution respecting presents from foreign powers and princes, he had declined to accept till leave should be given by Congress. Though passed by the Senate, this resolution was lost in the House—a rejection subsequently ascribed, by a unanimous vote, to motives of general policy, anything in it personal to Pinckney being expressly disclaimed. The usage since has been for ministers to receive the presents tendered, but, on their return, to deposit them with the Department of State. 1798.

Pending the session of Congress, the Constitution of Georgia had undergone a new revisal, under the provision to that effect contained in the Constitution of 1789. The pecuniary qualification of governor and members of the Legislature was slightly diminished, but new qualifications of citizenship and of residence in the state were added; in case of the governor, six years' residence and twelve years' citizenship; in case of members of the Legislature, three years' residence, with nine years citizenship for senators, and seven years' for representatives. Representation in the House was henceforth to be regulated by a compound basis of territory and population, including in the count "three fifths of the people of color." Three thousand inhabitants, according to this ratio, were to entitle a county to two members; seven thousand, to three members; and twelve thousand, to four members; but no county was to have less than

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one member, nor more than four. Following the example already set by the Assembly of the two Carolinas, the further importation of slaves "from Africa or any foreign place" was expressly prohibited. By a further provision, any person maliciously killing or dismembering a slave, was to suffer the same punishment as if the acts had been committed on a free white person, except in cases of insurrection, or "unless such death should happen by accident, in giving such slave moderate correction." But while these concessions were made to the sentimental antipathy to slavery, that institution was sustained by a clause copied from the Constitution of Kentucky, but still more stringent, by which the Legislature was forbidden to pass laws for the emancipation of slaves, except with the previous consent of the individual owners; nor were immigrants to be prohibited from bringing with them "such persons as may be deemed slaves by the law of any one of the United States."

The example of the United States had early inspired some enthusiastic and scheming minds with the idea of a Spanish-American revolution. Such was Francis Miranda, a native of Caracas, in South America, who, by the influence of his wealthy family, had obtained a commission in the Spanish-American military service. He had visited the United States before the close of the revolutionary war, and had formed many acquaintances there among the officers of the army. Detected, after his return, in plotting against the Spanish authority, he had escaped to Europe, and had proposed to the courts of England and Russia, not without encouragement from England during the Nookta Sound controversy, a plan for revolutionizing Spanish America. About the time of the establishment of the French Republic he went to Paris, and became connected with the Girond-

ists, by whom, on the breaking out of the war, he was appointed a general of division, and sent to serve in the Netherlands under Dumourier. He was recalled, and imprisoned by the Jacobins, who complained of his conduct at the siege of Meistricht and the battle of Nerwinde, and, though liberated in 1794, he was soon after ordered out of France. Having returned again, after the establishment of the Directory, he was accused of re-actionary intrigues against their authority, and was again sent away in 1797. The hostile disposition of those now in power in France, not less than the alliance between Spain and the French Republic, having extinguished his hopes of aid from that quarter, he had again addressed himself to the English government, which, rather than have the Spanish-American colonies fall under the control of France, was disposed to aid in making them independent. The breach between France and the United States led Miranda to hope that aid might also be obtained in America. He opened a correspondence with King, the American minister at London, and with his old acquaintances Hamilton, Knox, and Pickering, and also addressed a letter to the president. His plan was for England to furnish ships, and the United States troops, to the number of from five to seven thousand men. Hamilton, who suggested this arrangement, warmly favored the design; but he gave Miranda distinctly to understand that he could take no personal share in it, except under the authority of his own government. The compensation to the United States was to be all the territory claimed by Spain, east of the Mississippi. But though encouraged by others, Miranda received no answer from Adams, who ultimately adopted a course of policy inconsistent with any such project.

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ARMY APPOINTMENTS. INTERNAL AFFAIRS. PROSECUTIONS UNDER THE SEDITION LAW. GERRY AND LOGAN. AMERICAN SQUADRONS IN THE WEST INDIES. NULLIFICATION. RESOLUTIONS OF KENTUCKY AND VIRGINIA. THIRD SESSION OF THE FIFTH CONGRESS. NEW MISSION TO FRANCE.

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JUST before the close of the session of Congress, the president had nominated, and the Senate had unanimously confirmed Washington as lieutenant general and commander-in-chief of all the armies raised and to be raised for the service of the United States. Washington's letter of acceptance, which Adams hastened to lay before the Senate reassembled for executive purposes the day after the adjournment of Congress, evinced on the part of that great man a thorough sympathy with the administration and the Federalists. After expressing a wish that the president's choice had fallen on some one "less declined in years and better qualified to encounter the usual vicissitudes of war," and referring to his extreme reluctance to quit a retirement which he had hoped might be final, again to enter "upon the boundless field of public action, incessant trouble and high responsibility," "it was impossible for me," the letter adds, "to remain ignorant of or indifferent to recent transactions. The conduct of the Directory of France toward our country; their insidious hostilities to its government; their various practices to withdraw the affections of the people from it; the evident tendency of their arts, and those of their agents, to countenance and in-

vigorate opposition ; their disregard of solemn treaties and the law of nations ; their war upon our defenceless commerce ; their treatment of our minister of peace, and their demands amounting to tribute ; could not fail to excite in me sentiments corresponding with those which my countrymen have so generally expressed in their affectionate addresses to you. Believe me, sir, no one can more cordially approve of the wise and prudent measures of your administration. They ought to inspire universal confidence, and will, no doubt, combined with the state of things, call from Congress such laws and means as will enable you to meet the full force and extent of the crisis. Satisfied that you have sincerely wished and endeavored to avert war, and exhausted to the last drop the cup of conciliation, we can with pure hearts appeal to Heaven for the justice of our cause, and may confidently trust the final result to that kind Providence which has hitherto, and so often, signally favored the people of these United States."

Washington's acceptance was on the express condition that he should not be called into active service till the army was in a situation to require his presence, unless urgency of circumstances should sooner make it necessary. Under the late act for the increase of the army, Hamilton, Charles C. Pinckney, still detained in France by his daughter's ill health, and Knox were nominated and confirmed as major generals, Hamilton being also appointed inspector general. William North, late a senator from New York, was appointed adjutant general, with the rank of brigadier. The president had first nominated his son-in-law, William S. Smith ; but his character was suffering under his recent failure for a large amount, under circumstances not very reputable, and the Senate refused to confirm the appointment ; yet, at a

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subsequent period, they allowed his nomination as a colonel to pass. Brooks of Massachusetts, Dayton, the late speaker, and William Washington, a distant relative of the ex-president, distinguished during Greene's Southern campaigns as a cavalry officer, and who had settled in South Carolina, were appointed brigadiers. Nominations were also made of general officers of the provisional army, Henry Lee and Hand as major generals, and Ebenezer Huntington, of Connecticut, Antony White, of New Jersey, who had served as major general of the New Jersey militia called out to suppress the Whisky Insurrection, William R. Davie, of North Carolina, and Governor Sevier, of Tennessee, as brigadier generals.

It was with respect to these nominations, and especially as to the relative rank to be assigned to Hamilton and Knox, that the first symptoms appeared of want of cordiality between Adams and his cabinet. Washington, during his presidential term, appears to have exercised the appointing power, even in very important cases—such, for instance, as the nomination of Rutledge as chief justice—without any previous consultation with his cabinet. In his case, unanimous choice of the people as he was, this had been submitted to without murmuring. But the cabinet officers did not feel the same deference for Adams. He had, in fact, been elected as a party candidate, and they were inclined to think that all appointments ought to be made with their consent. Though, in the selection of the envoys to France, Adams had partially yielded to their remonstrances, he was, however, the last man in the world to resign a tittle of what he deemed the rightful prerogative of his office. At the same time that his position, compared with that of Washington, furnished special reasons why he should listen to advice (whether he took it or not), the charac

ter of his mind and the jealous irritability of his temper alike disqualified him to play the part of a serious and attentive listener, placing him, in that respect, in very disadvantageous comparison with his predecessor. Remarkable as Washington was for the uniform soundness of his judgment, he was by no means distinguished for activity of the conceptive faculties; and perhaps this uniform soundness could not otherwise have existed. He arrived at his conclusions by slow steps; it was, indeed, almost a necessity with him to be furnished, by suggestions from various quarters, with materials on which his judgment might operate. Hence his habit of asking advice—a habit not less flattering to those thus called upon than it was convenient to himself. Endowed as Adams was, on the other hand, with a very lively and vigorous imagination, he formed his conclusions almost with the rapidity of intuition, and, having the greatest confidence in his own discernment, he listened to advice rather as a matter of form than of use, and sometimes with evident marks of impatience—a circumstance not very flattering to his counselors.

Washington had suggested, when first consulted on the matter, as a condition of his acceptance, that no appointments should be made of general or staff officers without his concurrence; but, from the rapidity with which Adams hurried on the nomination, no such understanding was formally had. Washington was consulted, however, and the appointments above mentioned had been suggested by him, with the intention that the officers should take rank in the order in which they are named. In the Revolutionary army Pinckney had outranked Hamilton, being made a brigadier by brevet just at the close of the war, whereas Hamilton had never ranked higher than lieutenant colonel. Knox, as major general,

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had outranked them both. But the army as now organized had no connection with, or necessary reference to, the Revolutionary army; and rank was now to be determined, not by reference to past arrangements, but to present wants. Washington explained the matter in a letter to Knox, who was living at this time in the District of Maine, where he had entered largely into land speculations, having come into possession of a portion of the Waldo patent in right of his wife, and having made other large purchases on his own account. Knox, however, was by no means inclined to acquiesce in the arrangement proposed; and Adams, to whom the promotion of Hamilton was far from agreeable, seemed strongly inclined to support Knox's claim, and to give him the rank of first major general. Nor, in spite of the warm remonstrances of the cabinet, was the matter finally settled in Hamilton's favor, without a decided letter from Washington, intimating that he should consider the refusal to give Hamilton the first rank a breach of the understanding with him, sufficient to justify his own resignation. In consequence of this decision, Knox declined, somewhat haughtily, the command proffered to him. Indeed, the state of his private affairs was such as to demand his entire attention, for about this time he became involved in severe pecuniary embarrassments in consequence of the bad success of his land speculations. In this respect he did not stand alone. Wilson, who had recently died, and who was succeeded on the bench of the Supreme Court by Bushrod Washington, a nephew of the general, had become deeply involved by the same means, and more than once in the last years of his life had been in the hands of the sheriff. Even Robert Morris had been entirely ruined chiefly by speculations in New York lands and Federal city lots. To these failures, caused by unsuc-

cessful land speculations, began to be added a host of others, resulting from rash commercial ventures and the depredations of the belligerents, particularly the French, among which number were Swanwick and M'Clenachan, the two opposition members from the city and county of Philadelphia. The high rate of interest consequent upon these financial disturbances made it very difficult to fill up the new loans.

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The New York Legislature, called together in special session by Governor Jay, had appropriated \$1,200,000 to be expended, under the direction of the president, for fortifying the harbor of New York, and to go, according to the offer of Congress already mentioned, in liquidation of so much of the Revolutionary balance due from that state. The further sum of \$221,000 was also voted for the purchase of arms. Partly in consequence of the difficulty about rank already mentioned, no step had yet been taken toward the enlistment of the twelve additional regiments; and this matter was still further delayed by the reappearance of the yellow fever at Philadelphia, where it raged with even greater violence than during the memorable autumn of 1793. It appeared also, though with less violence, in New London, New York, Wilmington, and other towns. Those who were able almost universally fled from Philadelphia. Many of the poorer inhabitants left their dwellings and encamped in the fields. The public offices of the Federal government were removed for a month or two to Trenton, in New Jersey. Among the victims was Bache, editor and publisher of the *Aurora*; but another editor, not less violent and unscrupulous, and decidedly abler, stepped at once into the vacant seat. This was James Duane, born of Irish parents somewhere on the shores of Lake Champlain, but who had left the country in his

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youth, previous to the commencement of the Revolution, and having gone to his friends in Ireland, had there learned the trade of a printer, whence he proceeded to Calcutta, where he had set up an English newspaper, one of the first established in India. It is only within a recent period that the liberty of the press has been introduced into that part of the British dominions. In Duane's time no such thing was thought of; and having given offense by the insertion of some articles not agreeable to the authorities, his whole establishment had been seized, and he himself shipped back to England. After some attempts to obtain redress for the heavy pecuniary losses thus inflicted upon him, he had emigrated to America, and had obtained employment sometimes as editor, sometimes as reporter for one or other of the Philadelphia papers. Filled, naturally enough, with bitter hatred of the British government, he entered with great zeal into the politics of the opposition. Employed, after Bache's death, to edit the Aurora, he soon made himself master of the establishment by intermarriage with the widow, and thus suddenly found himself raised to a position of no mean influence. Fenno, printer to the Senate and publisher of the United States Gazette, the principal Federal organ at the seat of government, was carried off by the same disease a few days after Bache's death, but the paper was continued by his son.

The running of the lines under the treaty of Houlston, when at last it was completed, had disclosed the fact that several considerable tracts in the State of Tennessee, already occupied by white settlers, fell within the Cherokee territory. An attempt to remove these settlers having produced the greatest discontent, the president had thought it best to buy out the Indians, and commissioners for negotiating a treaty with them had been appoint-

ed during the late session of Congress. By a new treaty, signed at Tellico, in consideration of \$5000 in goods and an annual payment of \$1000, the Cherokees ceded the lands in question, conceding, also, a free passage through their lands to all travelers on the road to Kentucky passing through the Cumberland Gap.

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Much about the same time the Mississippi Territory was organized, under Winthrop Sargent, late secretary of the Northwest Territory, as governor.

Among other provisions of Jay's treaty had been the creation of a commission for determining the eastern boundary of the United States. Massachusetts had claimed as the true St. Croix mentioned in the treaty of 1773, the Maguadavick. The British not only claimed the Passamaquoddy as the true St. Croix, but they insisted upon the western branch of it, called the Schoodie, as the main stream. The commissioners decided that the Passamaquoddy was the true St. Croix, of which the identity was established by the discovery of the ruins of a fort built on an island at its mouth by the early French settlers near two hundred years before. At the same time they decided that the main stream of the river, from the source of which the boundary was to proceed in a due northerly direction, was not the Schoodie, but the eastern branch. The effect of this decision was to confirm existing land-grants and to divide the disputed country between the two nations in nearly equal proportions. One point, however, was left unsettled, as not within the powers of the commission, the ownership, namely, of the numerous islands in the Bay of Passamaquoddy.

Oct. 25.

The first victim under the new Sedition Law was no other than Matthew Lyon, a candidate for re-election to Congress, but in whose district at the first trial no choice

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had been made, as besides the Federal candidate, he had a republican competitor of somewhat less violent politics.

One charge against him was founded on a letter written from Philadelphia while the bill was still pending in Congress, and published, after its passage, in a Vermont paper, in which letter Lyon alleged that on the part of the executive "every consideration of the public welfare was swallowed up in a continual grasp for power, an unbounded thirst for ridiculous pomp, foolish adulation, and selfish avarice;" that men of merit were turned out of office or were refused office for no other cause but "independency of sentiment," while "mean men" were preferred for their readiness in advocating measures about which they knew nothing; and that the "sacred name of religion" was employed—an allusion to the late proclamation for a fast—as "a state engine to make mankind hate and persecute each other."

A second count charged him with publishing, by reading and commenting upon it at public political meetings, a private letter from Barlow in Paris to his brother-in-law Baldwin, in which the policy of the administration was fiercely attacked; the passage relied upon being one in which that renegade American had expressed his surprise that the answer of the House to the president's speech, of which the Directory had complained, had not been "an order to send him to the mad-house."

A third count charged him with abetting the publication in a pamphlet—contrary, it would seem, to his express agreement with Baldwin, from whom he had received it in confidence—of the whole of this letter of Barlow's, a letter not more abusive of Adams than of Washington, who was accused in it of having sacrificed the dignity of the nation by "thrusting Jay's treaty down the throats of the people of America by means

of a monstrous influence, an inexplicable contrast to the weakness of his political talents."

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Lyon, who managed his own cause, undertook to prove by Judge Patterson, before whom the trial took place, the truth of a part of his charges. He asked the judge whether he had not frequently dined with the president, and observed his ridiculous pomp and parade; to which Patterson answered that he had sometimes dined with the president, but instead of pomp and parade, had seen only a decent simplicity. Lyon made a long harangue to the jury; but they found him guilty, and after a severe lecture from the judge, he was sentenced to four months' imprisonment and a fine of \$1000, the amount being diminished in consequence of evidence that Lyon was embarrassed in his circumstances, and not far from insolvency.

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Some of Lyon's friends revenged his cause shortly after by girdling the apple-trees of the principal witnesses against him. A numerously-signed petition was sent to the president, asking Lyon's release from the prison, a very small, filthy, and uncomfortable one; but the president declined to grant this petition unless Lyon would signify his repentance by signing it himself. So far from that, the imprisoned patriot dispatched from his jail a highly-colored account of his trial, and especially of his prison accommodations, in a letter addressed to Mason, the Virginia senator, the friend of Callender; and indeed his treatment would seem to have been vindictively harsh and severe. Mason wrote back a sympathizing reply, in which he suggested that the amount of the fine might be made up by subscription. Lyon, meanwhile, to relieve his pecuniary embarrassments, adopted an expedient which, in the end, Jefferson himself was fain to imitate—that of a private lottery, the prizes to consist of

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houses, lands, and other real property, which it was hoped thus to dispose of at a generous price. But his friends, by whom this lottery was got up, having made use of language in their call upon the public in itself indictable, Haswell, the printer of the Vermont Gazette, in which that call appeared, was himself indicted, and after a twelvemonths' delay was sentenced to a fine of \$200 and two months' imprisonment. In conformity with Mason's suggestion a southern subscription was raised for the discharge of Lyon's fine; but of this money, according to Lyon's account, a part was abstracted before it reached Vermont; while most of the remainder was employed in paying Haswell's fine and the expenses of his trial, and also a fine of equal amount, inflicted under the Sedition Law, upon Holt of the New London Bee. While Lyon was still a prisoner, a new election took place in his district, and he had the satisfaction of being re-chosen to Congress by a very decided majority—a strong proof of the sympathy excited for him, and a bad omen of the effects to be expected from prosecutions under the Sedition Law.

Oct. 4.

The Maryland election, which shortly followed that of Vermont, was very vehemently contested. Smith was re-elected in the Baltimore District by two hundred majority, and throughout the state the Federalists did little more than to hold their own. They succeeded, however, at the ensuing session of the Legislature, in electing Benjamin Ogle as governor.

April 10.

While these various events were occurring in America, Gerry, alone at Paris, found himself in a somewhat awkward situation. Four days after Marshall's departure, not having heard any thing further from Talleyrand, he reminded him by a note that nothing but

threats of an immediate rupture, to be prevented only by his remaining at Paris, had prevented his departure at the same time with his colleagues. Although he did not feel authorized to continue the negotiation in character of minister plenipotentiary, as Talleyrand had proposed, he was, however, ready and desirous to receive from the French government, and to communicate to his own, a statement of the terms on which the differences between the two nations might be accommodated—terms, he doubted not, corresponding to the justice and magnanimity of a great nation. Such a communication, he hoped, would be promptly made, and a stop be put to further depredations on American commerce till an answer could be obtained from America, a course which would at once extinguish all feelings of hostility. He hoped, at all events, not to be long detained; the state of his private affairs demanded his speedy return, and the residence at Paris of the American consul general would answer every political purpose.

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In consequence of this note, Gerry had several interviews with Talleyrand, who declined to propose any terms of arrangement, alleging that he did not know what the views of the United States were. Gerry thereupon explained, what Talleyrand perfectly well understood before, the nature of the American claims and complaints. Some conversation was afterward had about sending a French minister to the United States, and finally, Talleyrand promised to furnish Gerry with the project of a treaty.

Pending these conversations, a special messenger arrived at Paris with a letter from Pickering, written just before the publication of the X, Y, Z dispatches, directing the ministers, if they had not already been admitted to a formal negotiation, to leave France forthwith. The same letter contained positive and precise instructions not to

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consent to any loan or douceur, or purchase of peace with money, and a hint that the dispatches on this subject were about to be published. As that publication might endanger the safety of the ministers were they still in France, in order to insure them timely notice, this letter had been sent by a special dispatch boat.

In consideration of "the new state of affairs," such was his own phraseology, Gerry seems to have held himself not bound to any implicit obedience of the instructions thus received. He resolved, indeed, to return in the dispatch boat, and took the opportunity to notify Talleyrand that it was necessary to make haste with his project of a treaty; but, rather than fail to obtain it, he determined to detain the vessel for such time as might seem expedient.

Talleyrand excused his delays by pleading other and pressing engagements. Several interviews took place between Gerry and Talleyrand's secretary, who disavowed any desire on the part of the French government to break up the British treaty, their demand simply being that France should be placed on equal ground with Great Britain. As to payments for spoliations, they must be made in the first place by the United States, to be reimbursed by France; but this, Gerry told him, was inadmissible.

May 26.

Gerry presently had an interview with Talleyrand himself, who told him that the Directory no longer had any thoughts of war. The results in America of the bullying system, of which the first advices began now to be received, would seem to have led to a change of tactics. Talleyrand even promised to propose to the Directory to send a minister to the United States.

So stood matters when the first news of the published dispatches reached the Directory. This was a stroke

which Talleyrand had not anticipated. He had hoped, indeed, as we have seen already, himself to make the first appeal to the American people, by publishing in the *Aurora*—the joint organ of the French government and of the American opposition—his reply to the memorial of the envoys.

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Gerry's first notice that the public dispatches had reached France, was a call upon him, by one of the Paris newspapers, to deny their authenticity. "Having reason to suppose," such is his own statement, "that the result of this new embarrassment, if not pacific, would be very violent," he prepared himself for the worst by securing his papers. He might well be alarmed, for it was only a short time before that, on the occurrence of ruptures with Portugal and the pope, the Portuguese and Roman ambassadors, instead of being furnished with passports, had been seized and thrown into prison.

May 2'

Soon after came a note from Talleyrand, inclosing a London Gazette, in which the dispatches were printed at length, "a very strange publication," so Talleyrand wrote. "It is," he added, "with surprise I observe that intriguers have taken advantage of the insulated condition in which the envoys of the United States have kept themselves, to make proposals and to hold conversations of which the object evidently was to deceive you." The letter then proceeded to demand the names represented by the letters W, X, Y, and Z; W having been used to designate the merchant by whom Hottin-guer (X) had been introduced to the envoys. "I must rely upon your eagerness," so the letter concluded, "to enable the government to fathom these practices, of which I felicitate you on not having been the dupe, and which you must wish to see cleared up."

May 30

After having been frightened by threats of instant war

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June 4.

into remaining in France against his own better judgment, and coaxed by the phantom of a promised project of a treaty into remaining still longer in defiance of the express orders of his government and at the risk of his personal safety, Gerry was now called upon to assist in discrediting his own dispatches—a procedure of which the coolness cannot but be admired, considering that Talleyrand himself had personally assured Gerry that full confidence might be placed in whatever Bellamy, the principal of the alleged intriguers, might state; and that both Hottinguer and Bellamy had been present at dinner parties in company with Talleyrand and Gerry, got up for the very purpose of forwarding the negotiation. Writhing not a little under this infliction, Gerry attempted to get off by admitting that the persons in question did not produce any credentials of any kind, and that three of them were foreigners, while the fourth acted only as a messenger and linguist. Being further pressed, however, he consented to give up the names, under an express assurance that they should not be published upon his authority; and he also stated, in reply to Talleyrand's request, that none of the persons employed in that minister's office had ever said a word having the least reference to the "shocking proposition," as Talleyrand called it, to pay any sum whatever by way of gratuity to the directors. That, indeed, was the only suggestion of the secret agents' which it was possible to disavow; for the attempt to frighten the envoys into buying peace with a loan had been repeatedly made by Talleyrand himself as well as by those agents, whose names, pretending not to know them, he had so formally demanded of Gerry.

June 7.

There appeared shortly after, in the *Paris Redacteur*, the special organ of Talleyrand, a labored defense of that

minister and of the Directory against the implications of the dispatches. Contrary to Talleyrand's stipulations, the letters which had passed between him and Gerry as to the names of the agents were published as a part of this defense—letters in which Gerry, as he had not judged it safe to suggest any doubts, might seem to admit the truth of Talleyrand's indignant disavowals, and of his peremptory assertions that the envoys had been grossly imposed upon. While openly assailing the other two envoys, this same paper did not spare even Gerry himself, attacked, as he expressed it, "under a thin veil of insidious compliments." Gerry wrote out a full detection of the sophistries of this article, but concluded, on second thought, that he might as well let the matter rest as it was. Meanwhile the dispatches were making a great noise. The British government caused them to be translated into the principal languages of Europe, and to be distributed in large quantities, as affording new proof of the rapacity and profligacy of the French republic; nor was it long before Bellamy, who had escaped to Hamburg, came out with a defense of his own conduct, in which he solemnly asserted, what there is every reason to suppose the truth, that he had never taken a step nor said a word in the matter of the American negotiation except by Talleyrand's express directions.

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Having swallowed his vexation the best he could at the treatment he had received in Talleyrand's newspaper, Gerry dispatched a note, intimating the necessity of his speedy departure for America, and of his being furnished with the promised sketch of a treaty. But instead of sending that, Talleyrand replied by complaints against the president's message communicating the dispatches, and, as the terms of the note would seem to imply, at the non-communication of his own answer of

June 10

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March 18th to the memorial of the envoys, which he did not doubt they had duly forwarded—the very same paper, by-the-way, for the publication of which he had himself provided by sending a copy of it to the *Aurora*; —a document quite sufficient, in his opinion, “to efface from the minds of the American people the ill-founded uneasinesses they may have been made to entertain.” Asserting the disposition of France for peace on the basis of a restoration to her rights under the treaties and of mutual indemnities, he ended with the old invitation to Gerry, so often rejected, to enter upon the negotiation as minister plenipotentiary.

June 13. Gerry replied, as so often before, that he could not treat, since he had no powers. It would, however, be very easy for the French government to state their terms, and to send a minister to America to complete the negotiation there. As to himself, he must shortly sail in the government dispatch boat waiting for him at Havre; and he reminded Talleyrand that the passports asked for had not yet been received. Respecting the suppression of Talleyrand's letter of the 18th of March, so bitterly complained of, he begged to suggest that a document dated at Paris on that day could hardly have arrived at Philadelphia by the third of April, the date of the president's message communicating the dispatches. Talleyrand attempted to escape from this awkward blunder by denying any reference to that letter; but the pertinacious Gerry returned again to the charge; and Talleyrand finally explained that all he meant was the suppression by the president of the fact, apparently well known in America, since some statements to that effect had appeared in the *Aurora*, that the Directory were willing to treat with one of the ministers, but not with the other two.

A very curious correspondence followed, consisting, on the part of Talleyrand, of new attempts to persuade Gerry to commence a new negotiation, intermixed with various complaints against the Federal government, referring especially to the president's answers to the addresses presented to him; and on the part of Gerry—for, though he might be frightened or cajoled into concessions, he was not to be argued out of an opinion—of new refutations of Talleyrand's sophistries, and, finally, of reiterated, and more and more urgent requests for his passports.

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Pending this singular correspondence, news continued to arrive of the vigorous measures of defense set on foot in the United States; and the effect of this news became sufficiently apparent in Talleyrand's letters. He was evidently alarmed lest war might result—an event rendered at once more probable and more formidable by the total failure of the Irish insurrection, the abandonment of the projected invasion of England, and the palpable evidences given by Great Britain, in spite of the suspension of specie payments and the late mutinies in the fleet, of undiminished ability to carry on the war. It was the evident object of his letters to manufacture, as Gerry expressed it, material for a manifesto by making a plausible show, without committing himself to any thing in particular, of a desire to preserve peace. During the space of six weeks Talleyrand tried every art to detain Gerry, no doubt as a guarantee against war. When at last he yielded to repeated demands, the letter inclosing Gerry's passports contained reiterated assurances of peaceful intentions, and strongly urged Gerry to use his influence to the same end. Not content with assurances merely, Talleyrand cited as proofs his earnest efforts to treat ever since the departure of Pinckney and

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July 15.

Marshall ; and to enable the opposition in America to use this letter, he caused it to be printed at length in the Paris newspapers. In a postscript, dated three days after the body of the letter, but published along with it, after noticing the suspension by Congress of commercial intercourse with France and the authority given to capture French cruisers, news of which had meanwhile arrived, he declared that the "long-suffering of the Directory" was about to manifest itself "in the most unquestionable manner, so that perfidy itself would no longer be able to cast suspicion on their pacific intentions. Though this fresh provocation would appear to leave no honorable alternative but war, the Directory would be content with imposing a temporary embargo on American vessels in their ports, giving, at the same time, a promise of indemnity, should occasion for it arise." "The Directory is yet ready, and as much disposed as ever, to terminate by a united negotiation the differences which subsist between the two nations. So great is the repugnance of the Directory to consider the United States as enemies, that, notwithstanding the recent hostile demonstrations, they mean to wait till they are irresistibly forced into war by real hostilities."

July 20

To this artful attempt to shift off upon the government of the United States and their envoys the failure of the negotiation, Gerry replied with great spirit. He contended that the late mission had been defeated by inadmissible demands of loans which would have violated the neutrality of the United States, and by demands equally inadmissible of reparation for the president's speech. He himself had been detained after the departure of his colleagues, first by threats of war, and then by a promise which had never been fulfilled, that he should be furnished with the project of a treaty such as

would satisfy the Directory. If the French government were really sincere in their wishes for peace, they might at least show it by putting some restraint upon the outrageous depredations committed upon American commerce by French privateersmen, who were suffered to go, especially in the West Indies, far beyond what even the decrees of the French government would justify.

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This spirited paper, by far the best of Gerry's diplomatic letters, and not unworthy of his Revolutionary reputation, and which he insisted upon publishing in the newspapers, since Talleyrand had seen fit to publish the letter to which it was a reply, had the effect to draw out from Talleyrand an express disavowal of any claim of reparation for the president's speech, or of any demand for a loan. He also declared that any envoy possessing Gerry's qualifications, who might be sent to negotiate at Paris, might be sure of being well received. Indeed, Gerry thought, and it might have been so, that a French minister would have been sent to America but for some apprehension lest the American government might retort the insults they had endured by refusing to receive him.

July 22.

After Gerry had obtained his passports and had gone to Havre, obstacles were still put in the way of his embarkation, partly, as he believed, to gain time for forwarding by him a decree of the Directory, of which a hint had been given in Talleyrand's last letter (passed, it would seem, by way of partial answer to Gerry's complaints), requiring all privateers to give bonds not to commit unauthorized depredations, and placing certain restraints upon the issue of commissions in the West Indies, and the condemnation there of captured vessels. Having been furnished with this proof, such as it was, of the peaceful disposition of the Directory, Gerry was at last permitted to sail.

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No sooner was Gerry gone than the Directory looked round for new means of recommencing the negotiation. Two decrees rapidly succeeded each other ; one for releasing those American citizens who had been imprisoned under the embargo recently imposed on American shipping, and a second raising that embargo—a thing, however, of little consequence, as there were at this time few American ships in French ports. By a circular letter of the same date with the decree rescinding the embargo, the minister of Marine gave directions to the French cruisers that no injury should be done to the officers or crews of American vessels found to be “in order,” nor to the passengers or crew, if citizens of the United States, and properly provided with passports or protections. Use was also made of the ready agency of Fulwar Skipwith, the American consul general at Paris, the protégé of Monroe, to convey assurances to the American government, founded, however, on no more trustworthy evidence than consul Skipwith’s private opinion, that the Directory intended to urge upon the legislative body a revision of the maritime laws, with a view to the organization of a system such as would secure “the most important rights of neutrality on the seas.” Skipwith seemed to think that, owing to particular circumstances, it would require some considerable time to dispose the French Legislature to make such changes in the laws as would cause the privateers and the tribunals “to respect neutrals in general, and the flag of the United States in particular ;” yet he was happy to add that the High Court of Cassation, before which appeals were pending as to most of the vessels captured, were disposed to procrastinate, so as to give time for the passage of the new laws. Until those laws were passed, it would be impossible for the Directory, however well disposed, to alter the course of the tribunals.

Some consolation was found for the departure of Gerry, in the arrival, just afterward, of Dr. Logan, whose departure from the United States has been already mentioned, and who was represented in the Paris newspapers, particularly one edited by citizen Paine, as the envoy, not, indeed, of the Federal government, but of those states favorable to the French interest. Logan was received and feasted with great éclat by Talleyrand and Merlin, and he soon departed on his homeward voyage with new and reiterated assurances, not, however, in writing, of the desire of the French government to treat. Indeed, an attempt to re-establish diplomatic communication with the United States, on ground much more moderate than any hitherto insisted upon, was, as we shall presently see, already on foot, through the agency of the French secretary of legation at the Hague, who had been authorized to communicate on that subject with Murray, the American minister to the Batavian republic.

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Though Gerry's intentions in entering into a secret correspondence with Talleyrand apart from his colleagues, and in remaining at Paris after their departure, were doubtless patriotic, originating in his extreme anxiety for the preservation of peace, and in the hope that he might become the instrument for bringing about a reconciliation between the two nations, his efforts in the matter, as is apt to be the case with unsuccessful experiments, do not appear to have given much satisfaction to any body. His colleague Pinckney had written home "that he had never met with a man so destitute of candor and full of deceit." Talleyrand, with a juster appreciation of Gerry's weak points—a virtuous weakness which he could not be persuaded to overcome—declared that "he wanted decision at a moment when he might have easily adjusted every thing; that he was too irres-

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olute; and that the correspondence between them was a curious monument of advances on his part, and evasions on Gerry's." Skipwith, in a letter to Jefferson, written before the departure of the other two envoys, speaking for himself and the other renegade Americans at Paris, of whom Barlow, Burney, and Thomas Paine appear to have been the chief, informed that head of the opposition that "they could perceive in Gerry but the shadow of what they had presumed he was. We learn in secret whispers from this good old gentleman (for I venerate the chastity of his moral character, while I regret that he has not courage to shape a political course congenial to the crisis here) that he has a hard and cruel task to think and act with his two associates, and that, were he alone, he would be able to stop the frightful breach between the two countries. But I am apprehensive that his paralytic mind would prove too weak to invent, and his arm too feeble to apply the remedy which the disease demands. In fact, no one but a pronounced Republican and friend of the French Revolution, and a man unfettered by the forms and school-readings of Adams and Pickering, could stand a chance to heal the wounds which are now bleeding."

The means of healing these bleeding wounds recommended by this patriotic consul general were simply these: "'Tis to confess some of our errors, to lay their sins heavily upon the shoulders of a few persons who have perpetrated them, to modify or break the English treaty with Jay, and to lend France as much money, should she ask it, as she lent us in the hour of distress. I am aware that the pride of some, the knavery of many, and the ignorance of others, would pretend to execrate the act; but imperious necessity commands, and the genius of republican liberty would sanction it." With

such a consul general in close communion and sympathy with the French government on the one hand, and on the other with the leaders of the American opposition, who, it was believed, would soon rise to the head of affairs, what need have we to wonder at the insolence of Talleyrand and the Directory? Barlow had written, about the same time, a similar letter to his brother-in-law Baldwin, some extracts from which have been already quoted in giving an account of Lyon's trial.

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But, if Gerry's conduct gave no satisfaction abroad, whether to his fellow-envoys, to the French government, or to the American partisans of France, it found hardly more favor at home. The Federalists execrated his separation from his colleagues and his delay in France as acts of timidity and weakness, if not of treachery. So high was the indignation of his immediate neighbors against him, that his wife and young family, then resident at Cambridge, near Boston, became, as his biographer complains, the object of some of those disgraceful annoyances which it had been customary to play off at the commencement of the Revolution against some of the old Tories, and to which, at that time, perhaps, Gerry himself had not much objected. "Letters, anonymous or feigned, were sent to Mrs. Gerry, imputing his continuance in France to causes most distressing to a wife and mother. Yells were uttered and bonfires were kindled at night about the house, and on one occasion a guillotine was erected under the window, smeared with blood, and bearing the effigy of a headless man."

But if the Federalists were indignant, the opposition, on the other hand, were no better satisfied; for in finally leaving France without making any treaty, or bringing with him any definite proposals, he seemed to have fur-

CHAPTER XIII. nished unanswerable proofs of the falsehood and perfidy of the French government.

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Oct. 8. a report of his mission, received him with kindness, and seemed disposed, by apologies for him in private conversation, to justify himself in having insisted upon Gerry's appointment. And yet he allowed Pickering, at the ensuing session of Congress, to send in a report, pruned, indeed, somewhat by the president's hand, but in which Gerry's conduct was very sharply criticised. Even Jefferson, in a long letter of what seemed to be condolence and sympathy, though it had, in fact, quite another object, which will presently appear, could not refrain from the insulting insinuation that Gerry and his colleagues had been completely duped by the agents, X, Y, and Z, there being neither "proof nor probability" that the French government had any thing to do with their corrupt proposals.

Within a few days after Gerry reached Boston, his colleague Pinckney, who had been residing for some months, on account of his daughter's health, in the south of France, arrived at New York. He accepted with alacrity the military rank assigned him, approved with warmth the appointment of Hamilton to the first place next to Washington, and declared his readiness to give way to Knox also, did the good of the service seem to demand it.

Nov. The yellow fever having disappeared with the first frost, Washington, Hamilton, and Pinckney soon after met at Philadelphia, and, in conjunction with the Secretary of War—the President being still at Braintree, whither he had retired shortly after the close of the session of Congress—matured the arrangements for organizing the twelve new regiments, and selected proper persons for regimental officers.

Gerry and Pinckney were soon followed across the Atlantic by Logan, the account of whose mission, given by the French papers, had greatly inflamed the suspicions against him. He was received by the Federalists with shouts of execration as the treasonable envoy of a political party which had undertaken to carry on a correspondence of its own with a foreign and hostile power. The good Quaker hastened to present himself at the Department of State, but he brought no papers except duplicates of some old letters of Skipwith, and his reception by Pickering was not very gracious. Nor was he much better received by Washington, upon whom he waited shortly after, and who has left, in his own handwriting, a curious memorandum of the interview. Though received standing, and with a repulsive coldness and distance which no man knew better than Washington how to assume toward an unwelcome visitor, Logan would persist in giving an account of his mission; to which Washington replied that it was something very singular that he, a mere private individual, unprovided with powers, and it was to be presumed unknown in France, should suppose that he could effect what three gentlemen of the first respectability in the country, and specially charged under the authority of government, had been unable to do. At first the good doctor seemed a little disconcerted; but he soon recovered himself, and stated, by way of answer to the suspicions afloat concerning his mission, that not five persons knew of his going, that Jefferson and M'Kean had furnished him with certificates of citizenship, and that Merlin, the president of the Directory, had evinced the greatest desire that the two republics should be on the best terms. To which Washington dryly answered that the doctor had been decidedly more fortunate than our envoys, since they could nei-

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ther be received nor heard by Merlin or the Directory. If the authorities of France were serious in their professions of a desire for peace, there was a very plain and effectual way to show it, the repeal, namely, of the obnoxious decrees by which the commercial rights of America had been so seriously invaded; the putting a stop to further depredations; and the making restitution for the injuries already inflicted. On a suggestion of Logan's that the Directory had regarded the American government and the envoys as disposed to hostilities, Washington asked, what better evidence could be given in refutation of such an opinion than the long-suffering of our government under the outrageous conduct of France, and the dispatching thither three gentlemen of unquestionable worth, with ample powers to reconcile all difficulties, even though it might require great sacrifices on our part? Did the Directory look upon us as worms not even allowed to turn when trod upon? It was evident to all the world that we had borne and forborne beyond what even common respect for ourselves permitted. Logan stated that the Directory had taken off the embargo, and were making restitution of property, and he mentioned one instance of it. To which Washington answered, that taking off the embargo or keeping it on was of very little consequence, as there were but very few of our vessels in France. The self-appointed Quaker envoy then began to magnify the power of France and the danger of the United States if they persisted in holding a hostile attitude, to which Washington rejoined that we were driven into these measures in self-defense, and that he hoped the spirit of the country never would suffer injuries to be inflicted with impunity by any nation under the sun—a sentiment to which Logan so far responded as to state that he had told Citizen Merlin that,

if the United States were invaded by France, they would unite to a man to oppose the invaders. So ended this conversation, which is given at length, not only as remarkably illustrating the characters of the speakers, but as exhibiting in a striking light the views of the parties to which they respectively belonged. What Washington had said was in every Federalist's mouth, while the more moderate of the opposition talked like Logan.

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Not discouraged by these rebuffs, Logan waited soon after upon the president, who arrived about this time at Philadelphia, and upon whom, as it would seem, his visit was not without impression. As well on his return from Braintree as in going thither, the president had been received at New York and elsewhere on the road with great enthusiasm. It was even proposed to celebrate his birth-day, which occurred about this time; but this does not seem to have been done. The opposition, indeed, were quite enough vexed at the keeping up of the custom of celebrating Washington's birth-day; though Jefferson, with his usual sanguine view of things, found consolation in the proof thus afforded that it was the general's, not the president's birth-day, which the people had celebrated.

The news of the capture of Bonaparte's fleet in the battle of the Nile was received in America with open joy on the part of the Federalists—first of English victories so welcomed for a quarter of a century—and with ill-concealed vexation on the part of the opposition. The Federal papers chronicled with triumph the bringing in from time to time of captured French cruisers. Already there were at sea, of American public armed vessels, besides the three frigates, twelve sloops of war of from twenty-eight to twenty-four guns, and eight armed cutters. The entrances of the American harbors were

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no longer safe cruising ground for picaroon vessels, nominally French privateers, but very often little better than pirates. Not content with driving them from the coast, the American squadron had pursued them to the West Indies, where a serious check was already given to the depredations, so long committed without resistance, on American commerce. Orders had been issued by the British naval commander on the West India station to treat the American ships of war with all courtesy; but even at this important and interesting moment it was impossible to put a complete check upon that insufferable insolence of British naval officers which had already bred so much ill blood between the two nations, and was destined to breed more. The commander of a British squadron of heavy ships, cruising off the Havana—of which the commerce, since the late alliance between France and Spain, had been opened for the first time, as well as that of Vera Cruz and other Spanish-American ports, to other than Spanish vessels—had the impertinence to intercept and detain a part of a convoy of American merchantmen sailing to that port under escort of the sloop of war *Baltimore*; and even to send on board that vessel and to take out five or six of her crew, under claim that they were British subjects. This affair, which became presently the occasion of a motion in Congress, caused the issue of an order by the Navy Department, that no commander of any American ship of war should ever allow his ship to be searched or detained, or any of her men to be taken from her, under any pretense whatever; but to resist to the uttermost, and if overpowered by superior force, to strike his flag and yield up vessel as well as men, but never men without the vessel. Representations on this subject were immediately made to the British government, by whom the outrage was promptly

disavowed; but that could not prevent the ill effects which such an occurrence could not but produce upon minds as sensitive to British as they were callous to French insults. CHAPTER
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The commander of the *Baltimore* had submitted to a force which did not admit of the idea of resistance. Captain Tingley, in the *Ganges* sloop of war, while cruising in the same seas, being inquired of by a boat from a British frigate whether he had among his men any British subjects, returned for answer that the American flag was a sufficient protection to any man in his ship—an answer with which the captain of the frigate judged it prudent to be content.

The two points whence the French privateers had chiefly issued were the island of Guadeloupe and the coasts of French St. Domingo. The English, after vainly struggling for several years to obtain possession of the latter colony, had at last judged it expedient, in hopes of thus detaching it from France, to resign the French part of the island into the hands of the blacks, by whom it had been so long and so bravely defended. There was a large and well-organized black army under Toussaint, a man as distinguished for civil as for military talents, remarkable, though born and bred a slave, for an equity, moderation, and justice, exhibited toward whites and blacks alike, of which the French Revolutionary annals afford but very few examples. The English finding it impossible to conquer the island, and perceiving that the actual control of things was in Toussaint's hands, had entered into negotiations with him, and had withdrawn their troops with an understanding that he should assume the government and keep the island neutral during the war. Toussaint, on his part, had compelled Hedonville, the commissioner of the Directory, to depart with

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his few white troops. The mulattoes in the southern district of the colony, under Rigaud, were disposed to maintain the connection with France ; but that chief was obliged to submit to the superior genius and power of Toussaint. This expulsion of the French led to a great diminution in the number of privateers issuing from the ports of that island ; and Toussaint, desiring to renew commercial intercourse with America, sent an agent to the United States for that purpose.

The American naval force was divided into four squadrons ; one of nine vessels, under Commodore Barry, the senior officer of the navy, cruised to the eastward, as far south as Tobago ; a second of five vessels, under Commodore Truxton, had its rendezvous at St. Kitt's, its business being to watch the island of Guadaloupe ; two smaller squadrons guarded, the one the passage between Cuba and St. Domingo, the other the neighborhood of the Havana, whence a number of privateers were accustomed to issue under French colors. Each of these squadrons captured several French privateers. The merchants had eagerly availed themselves of the permission to arm : and by an official return at the end of the year, it appeared that, besides the public ships, there were commissioned not less than 365 private armed vessels, mounting together 2733 guns, and manned by 6874 seamen. This armament was chiefly for defense, the commissions, whether in the case of public or private vessels, authorizing only the capture of armed ships.

The French corvette captured by Decatur, having been refitted and named the Retaliation, had been placed under the command of Bainbridge. While cruising off the island of Guadaloupe, she fell into the hands of two French frigates, which came unexpectedly upon her, and was carried into that island. On board one of these

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frigates was Desforneaux, appointed to supersede Victor Hugues as commissioner of the Directory for that island. Hugues, who had so long exercised despotic power, and whose unscrupulous vigor and energy had made him the terror of those seas—a terror felt by American ship-owners no less than by the inhabitants of the neighboring British islands—was presently arrested and sent a prisoner to France. Yet it was only by urgent and repeated remonstrances that Bainbridge could obtain of the new commissioner some relaxation of the extremely harsh and cruel treatment of numerous American prisoners at Guadaloupe, the crews of vessels captured and condemned. Bainbridge stated that while he remained in the island American prizes were brought in to a value far exceeding that of the Retaliation. There is reason, however, to believe that the greater part of these captures were collusive, the vessels having approached Guadaloupe for the very purpose of being nominally captured, and in that way evading the penalties of the act forbidding commercial intercourse with France and her possessions. Guadaloupe had suffered severely from this non-intercourse, and the new commissioner, anxious to bring it to an end, declared to Bainbridge, who, as a means of relieving his countrymen, had suggested an exchange of prisoners, that he did not consider the Americans in that light, but as friends, and that he would send them all home under a flag. Yet this did not prevent some twenty of them being pressed, in spite of Bainbridge's remonstrances, to complete the complement of the frigate in which Victor Hugues was sent to France. Finally, the Retaliation, of which Bainbridge, much against his will, was compelled to assume the command, was sent to the United States, with two other vessels filled with the late prisoners, and carrying, also, an agent of Desforneaux's to solicit a renewal of trade.

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His plan was to seem to have restored the **Retaliation** in a friendly spirit, and great use was made of this incident, especially by Jefferson in his private correspondence, as a fresh proof of the anxiety of the French government for a reconciliation. But the American government refused to regard the restored prize in any other light than as a cartel, and she was presently sent back with a number of French sailors taken in the captured privateers. Meanwhile, however, the change of administration in St. Domingo and Guadaloupe, the presence of American as well as of British cruisers in the West India Seas, and the protection they afforded by way of convoy, gave comparative security to American commerce. Rates of insurance, which had been as high, on an average, as twenty per cent., fell about one half, thus affording unquestionable evidence of the efficiency of the protection afforded.

Meanwhile the great leader of the opposition was very busy in constructing machinery for the overthrow of the administration, to accomplish which he seemed willing to risk, notwithstanding his late judicious advice to Taylor, the destruction even of the Union itself. The pitch of excitement to which he had risen may be judged of from another letter to the same correspondent, in which he declares it to be "a singular phenomenon, that while our state governments are the very best in the world, without exception or comparison, our general government has, in the rapid course of nine or ten years, become more arbitrary, and has swallowed up more of the public liberty than even that of England." It must have been while under the influence of feelings like these that Jefferson had prepared, after consultation with George Nicholas of Kentucky, Wilson C. Nicholas of Virginia (both brothers of John Nicholas), and probably with Mad

ison, and under a pledge of that profound secrecy with which he so scrupulously shrouded all his movements, the original draft of those famous resolutions which had just been offered in the Legislature of Kentucky ; resolutions which revived the anti-Federal spirit in all its early virulence, and threatened to reduce the existing government to something no better than the old confederation, if so good. Indeed, had Jefferson's programme been entirely followed out, the State of Kentucky would have placed itself in a position of open rebellion against the authority of the Federal government.

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The original draft, as still preserved in Jefferson's handwriting, began with a resolution that the Federal Constitution is a compact between the states as states, by which is created a general government for special purposes, each state reserving for itself the residuary mass of power and right; and "that, as in other cases of compact between parties having no common judge, each party has an equal right to judge for itself, as well of infractions as of the mode and measure of redress." This resolution involves two very questionable doctrines; first, that the Constitution, instead of being a form of government as it purports to be, is simply a compact or treaty; and, secondly, that the parties to it are not, as the Constitution itself declares, "the people of the United States," but only the states as political corporations. Then followed five resolutions practically applying to three acts of the last Congress this alleged right of the states to judge of infractions and their remedy, not merely as matter of opinion, but officially and constitutionally, as parties to the compact, and as the foundation of important legislation. These three acts were, one to punish counterfeiters of the bills of the United States' Bank, the Sedition Law, and the Alien Law; all of

CHAPTER XIII. which, for various reasons assigned, were successively pronounced "not law, but altogether void and of no force." The seventh resolution postponed "to a time of greater tranquillity" the "revisal and correction" of sundry other acts of Congress, alleged to have been founded upon an unconstitutional interpretation of the right to impose taxes and excises to provide for the common defense and general welfare, and to make all laws necessary and proper for carrying into execution the powers vested in the government of the United States. The right to act, and cases for immediate as well as prospective action being thus laid down, the eighth resolution directed the appointment (as was done at the commencement of the Revolutionary quarrel with Great Britain) of a "committee of conference and correspondence," to communicate the foregoing resolutions to the several states, and to inform them that the commonwealth of Kentucky, with all her esteem for her "co-states" and for the Union, was determined "to submit to undelegated, and, consequently, unlimited powers in no man or body of men on earth; that, in cases of an abuse of the delegated powers, the members of the general government being chosen by the people, a change by the people would be the constitutional remedy; but where powers are assumed which have not been delegated, a nullification of the act is the right remedy; and that every state has a natural right, in cases not within the compact, to nullify, of their own authority, all assumptions of power by others within their limits." After many arguments to show that such is the only doctrine consistent with liberty, and that to appeal in such a case to Congress would be quite out of place, Congress being not a party to the compact, but merely its creature, the eighth resolution proceeded to

authorize and instruct the committee of correspondence to call upon the co-states "to concur in declaring these acts void and of no force, and each to take measures of its own for providing that neither these acts, nor any other of the general government ~~not~~ plainly and intentionally authorized by the Constitution, shall be exercised within their respective territories." The ninth resolution of Jefferson's draft gave to this same committee a power to correspond with other like committees, to be appointed by the "co-states," and also required a report of that correspondence at the next session of the Legislature.

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Carefully covered up under promises of secrecy, Jefferson was very bold with his pen; and if other writings of his were of this questionable character, we need not be so much surprised, especially now that the Sedition Act was in force, at the nervous anxiety which many of his letters exhibited lest his seals should be broken open by Federal spies in the post-offices. The present dose, indeed, was rather too strong even for George Nicholas, who had undertaken to present the resolutions for adoption by the Kentucky Legislature; and in his hand they underwent a change, much to be approved on the score of discretion, but which caused them to present a somewhat ludicrous contrast between boldness of preamble and tameness of conclusion. Nicholas adopted the first seven resolutions entire; but for the eighth and ninth he substituted two drawn by himself, of which the purport was that the preceding resolutions be laid before Congress by the Kentucky senators and representatives, who were "to use their best endeavors to procure at the next session a repeal of the aforesaid unconstitutional and obnoxious acts;" the governor meanwhile to transmit copies to the Legis-

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latures of the several states, to whom an earnest argumentative appeal was addressed, borrowed partly from Jefferson's eighth resolution, for an expression of opinion as to the Alien and Sedition Laws, and for their concurrence with Kentucky in declaring those laws void and of no force, and in requesting their repeal at the next session of Congress. In this shape the resolutions passed the Kentucky Legislature with only two or three dissenting votes.

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A few weeks after, the same doctrine of nullification, nearly or quite to the full extent of Jefferson's original draft, its virulence, however, somewhat disguised by the generality of the terms, was re-echoed by the Legislature of Virginia in a series of resolutions, drafted by Madison, and offered by that same John Taylor who had suggested but a few months before the idea of a separate confederacy, to be composed of Virginia and North Carolina. These resolutions began with expressing a warm attachment to the Constitution and the Union, after which they proceeded to assert that the powers of the Federal government result only from a compact to which the states are the parties, "and that in case of a deliberate, palpable, and dangerous exercise of other powers not granted by the said compact, the states who are the parties thereto have the right and are in duty bound to interpose for correcting the progress of the evil, and for maintaining within their respective limits the authorities, rights, and liberties appertaining to them." Next came an expression of "deep regret at a spirit in sundry instances manifested by the Federal government to enlarge its powers by forced constructions of the constitutional charter, and of indications of a design to expound certain general phrases so as to destroy the meaning and effect of the particular enumeration which necessarily explains and

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limits the general phrases," and "so to consolidate the states, by degrees, into one sovereignty, the obvious tendency and inevitable result of which would be to transform the present republican system of the United States into an absolute, or, at best, a mixed monarchy."

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The resolutions then wound up with a protest against the Alien and Sedition Laws, which, for certain reasons set forth, were pronounced "palpable and alarming infractions of the Constitution;" a protest in which the other states were called upon to join, and each "to take the necessary and proper measures for co-operating in each state in maintaining, unimpaired, the authorities, rights, and liberties reserved to the states respectively, or to the people." These resolutions were passed, after a warm debate, by a vote of one hundred to sixty-three in the House of Delegates, and of fourteen to three in the Senate. But, in order to get them through, it was found necessary to strike out their most significant clauses as originally proposed, by which the obnoxious acts were pronounced "null, void, and of no force or effect." About a month after, they were sent out with an address, drawn probably by Madison, very able and adroit, containing the entire case of the opposition as against the Federal administration; to which an answer, not less able, was soon put forth, signed by fifty-eight of the minority.

In the midst of these formidable preparations for bringing the state authorities into direct conflict with the Federal government, the fifth Congress came together for its third session. The president's speech began with some allusions to the yellow fever, and the propriety of establishing, in aid of the health laws of the states, some general system of quarantine compatible with the interests of commerce and the safety of the revenue. It next suggested, as an addition to the ordinary objects of

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"our annual oblation of gratitude," that spirit which has arisen against the menaces and aggressions of a foreign nation; a manly sense of national honor, dignity, and independence, which, if encouraged and invigorated by every branch of the government, would "enable us to view undismayed the enterprises of any foreign power, and become the sure foundation of national prosperity and glory."

The information as to the relations of France and the United States, received during the recess, and which he promised to communicate in a special message, went, in the president's view, to confirm the failure of all attempts at an amicable arrangement. These papers would, indeed, show the French government apparently solicitous to avoid a rupture; and they even contained an expression of willingness to receive a minister from the United States. But that willingness was unfortunately expressed in terms which might seem to imply the inadmissible pretension to prescribe the minister's qualifications, and even to question the sincerity of the United States in their often-expressed and repeated wishes for peace. The late decree requiring French privateers to conform to the laws could give no effectual relief, since those very laws were among the chief things complained of; especially the one subjecting to capture all vessels having British products on board—a decree in itself an act of war, presenting the French government as a power regardless of the independence, sovereignty, and essential rights of neutral nations, and only to be met, consistently with the interest and honor of such neutral nations as had the means to make it, by a firm resistance. Nothing, in his opinion, was discoverable in the conduct of France "which ought to change or relax our measures of defense." On the contrary, it would be true policy to extend and invigorate them.

“An efficient preparation for war can alone secure peace. It is peace that we have uniformly and perseveringly cultivated, and harmony between us and France may be restored at her option. But to send another minister, without more determinate assurances that he would be received, would be an act of humiliation to which the United States ought not to submit. It must, therefore, be left with France, if she is indeed desirous of accommodation, to take the requisite steps. The United States will steadily observe the maxims by which they have hitherto been governed. They will respect the sacred rights of embassy; and, with a sincere disposition on the part of France to desist from hostility, to make reparation for the injuries hitherto inflicted, and to do justice in future, there will be no obstacle to the restoration of a friendly intercourse.”

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But while giving this public pledge of readiness to meet any sincere advance on the part of France toward peace, the president still urged, as the only sure means of obtaining an equal treaty and insuring its observance, preparations for war, and, particularly, attention to the naval establishment. “Perhaps no more sudden and remarkable advantages had ever been experienced from any measure than those derived from arming for maritime defense. A foundation ought to be laid, without loss of time, for giving an increase to the navy, sufficient to guard our coasts and protect our trade,” and he recommended to the attention of Congress “such systematic efforts of prudent forethought as would be required for this object.”

Adams had been accustomed, after Washington's example, to consult his cabinet ministers as to the contents of his speeches, and, like him, to make free use of the drafts which they furnished. A large portion of that part of the speech relating to France had been taken

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from a draft furnished by Wolcott; but on one important point there had been a deviation. Wolcott's draft had expressly declared, and, in so doing, had expressed the opinion of at least a majority of the cabinet, that to send another minister to France would be an act of humiliation not to be submitted to except under the pressure of an extreme necessity, which did not exist. Very much against the will of Pickering, Wolcott, and M'Henry, Lee and Stoddert seeming also to incline the same way, though much less decisively, the president gave to this passage the turn above stated, so as still to leave himself the conditional liberty of sending a minister, upon the withdrawal of the offensive pretensions to dictate the selection, and more positive assurances as to a respectful reception.

The sentiments of the speech were fully re-echoed by the House as well as the Senate; and, what had not happened for several sessions, the answers were carried in both Houses without a division. The answer of the Senate, referring to Logan's recent mission, complained of an intercourse carried on by France, through "the medium of individuals without public character or authority, designed to separate the people from their government, and to bring about by intrigue that which open force could not effect;" to which Adams responded by a suggestion whether such "temerity and impertinence on the part of individuals affecting to interfere in public affairs, whether by their secret correspondence or otherwise, and intended to impose on the people and to separate them from their government, ought not to be inquired into and corrected?"

This suggestion gave rise to the first act of the session, known as the "Logan Act," which made it a high misdemeanor, subject to a fine not exceeding \$5000,

and to imprisonment from six months to three years, for any citizen of the United States to carry on, without permission or authority from the Federal government, any correspondence, verbal or written, with the officers of a foreign government, with intent to defeat the measures of the government of the United States, or in any controversy in which the United States were concerned, to influence the conduct of a foreign government.

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Not being able to meet this bill in the face, the opposition, led by Gallatin, Nicholas, and Macon (for Giles had resigned his seat), made the most strenuous efforts to neutralize it by amendments. A very sharp discussion ensued, in the course of which Harper, now the acknowledged leader of the Federalists in the house, made a severe attack upon Logan, as well as upon those heads of the opposition in concert with whom he was supposed to have acted. This drew out from Logan a letter, published in the *Aurora*, in which he gave the history of his mission, and denied the concern in it of any body but himself. Since his return Logan had been chosen, after a very severely contested election, a member of the Pennsylvania Legislature.

The early part of the session was chiefly occupied with the impeachment of Blount, left undisposed of at the close of the last session. The preliminary questions having at last been arranged, the Senate resolved itself into a High Court of Impeachment. More agreeably occupied as president of the Senate of Tennessee, Blount disregarded the summons sent him, and did not personally appear. But Dallas and Ingersoll, who acted as his counsel, filed a plea, in which they denied the jurisdiction of the court, on the double ground that senators were not "officers" liable to be impeached, and that, if they were, Blount's expulsion from the Senate left him

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Jan. 23. One cause of the president's delay became apparent in the transmission, a few days afterward, of a very elaborate report from Pickering, which it must have taken some time to prepare, and in which, though it had been somewhat trimmed down by the president's hand, Talleyrand, the Directory, and Gerry himself were very sharply criticised. The main argument of this report was, that as the several outrageous French decrees against American commerce remained unrepealed (whatever little repealing there had been being but illusory), Talleyrand's expressions of readiness to treat ought to be regarded only as a deceptive lure, intended to keep the United States quiet, while France, in the continued plunder of American commerce, enjoyed all the benefits without experiencing hardly any of the evils of war.

Pickering's report was presently followed by another message, communicating a new decree, extending to neutrals generally, found serving on board hostile vessels, that penalty already some time before denounced against Americans in particular, of being treated as pirates, even though they might allege having been forced into the service. This sort of impartiality did not satisfy; and a bill was soon brought in by the Committee of Defense, authorizing, on proof of the execution of this decree against any American citizen, a retaliation, in like kind, upon any French prisoners in the hands of the United States. Before this bill had time to pass, news arrived that, owing to threats of retaliation by England, the late decree had been repealed; but as the former decree, embracing American citizens only, still remained in force, the bill was persevered with, and became a law.

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Into the bill which passed the House, continuing for a year the non-intercourse with France and her dependencies, a clause was inserted, in spite of the efforts of the opposition, designed to facilitate the renewal of commercial intercourse with St. Domingo, the president being authorized, whenever he might deem it expedient, to discontinue this restraint by proclamation, either with respect to the entire French republic, or to any port or place belonging to it.

Three bills from the naval committee were carried through the House, one appropriating a million of dollars toward the construction of six ships of the line and six sloops of war; a second appropriating \$200,000 for the purchase of timber; and a third granting \$50,000 toward the establishment of two dock-yards.

The Senate, meanwhile, had passed a bill, authorizing the president to raise, in case of war or imminent danger of invasion, besides the troops voted at the last session,

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the recruiting for which had but just commenced, twenty-four additional regiments of infantry, three regiments of cavalry, a regiment and a battalion of riflemen, and an additional battalion of artillery, making a total force of regulars, should these and the other new regiments be filled up, of upward of forty thousand men; and also to organize such volunteers as might offer their services under the act of the last session, to the number of seventy-eight thousand men, distributed in certain quotas among the states. To carry these provisions into effect, should the emergency arise, two millions of dollars were appropriated.

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In the midst of the progress of these vigorous measures, great was the astonishment of the Federalists, and not less the exultation of the opposition, at a message sent by the president to the Senate, nominating William Van Murray, resident minister at the Hague, as minister plenipotentiary to the French republic. There was sent to the Senate along with this message, and as the occasion of it, the copy of a letter from Talleyrand to Pichon, the French secretary of legation at the Hague—a letter intended, so it seemed to the president, as a compliance with the condition set forth in his message of June preceding, in which the return of Marshall had been notified, as that on which alone he would ever send another minister to France—“assurance that he would be received, respected, and honored as the representative of a great, free, independent, and powerful nation.” Being always disposed to embrace “every plausible appearance of probability” of preserving peace, he had thought proper, so he stated in his message, to meet this advance by making the present nomination.

Duly to understand the exact position of affairs, and the occasion of the above-mentioned letter of Talley-

rand's and of the nomination of Murray, it will be necessary to go back for a moment to Europe, and to the attempt on the part of Talleyrand at the renewal of diplomatic relations with the United States, already mentioned as set on foot at the Hague.

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Very shortly after Gerry's departure, M. Pichon, formerly a resident in America, lately a clerk in Talleyrand's office, and at this moment secretary of the French legation at the Hague, had opened a communication, no doubt by Talleyrand's direction, with Murray, the American resident there. For Murray's satisfaction on certain points, Talleyrand not long after addressed (August 28, 1798) a letter to Pichon, in which, after many compliments to Murray personally, and admitting, also, that the Directory might have been mistaken (as Murray had asserted to Pichon) in ascribing to the American government a design to throw itself into the arms of England, a formal disavowal was made of any wish on the part of the Directory to revolutionize the United States, or any intention to make war upon them. "Every contrary supposition," said this letter, "is an insult to common sense;" though Talleyrand himself, not six months before, had frightened Gerry into remaining at Paris by threats of instant war if he departed.

After complaining, in terms already quoted, of Gerry's diplomatic incapacity, this letter went a step beyond the offer to treat contained in Talleyrand's closing letter to Gerry himself, and which the president at the opening of the session had pronounced inadmissible, clogged, as it was, by the proviso of an envoy "who should unite Gerry's advantages." Talleyrand expressly disavowed, in this letter to Pichon, any disposition to dictate as to the selection of an envoy. He had only intended to intimate, in a friendly way, that the Directory

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After some further communications from Pichon, of interviews between him and Murray, Talleyrand had written again (September 28)—and this was the letter communicated by the president as the basis of his nomination of Murray—giving his express sanction to a declaration which Pichon had taken it upon himself to make, that, whatever plenipotentiary the government of the United States might send to France, “he would undoubtedly be received with the respect due to the representative of a free, independent, and powerful nation.” Both these letters had been communicated to Murray for transmission to the United States, but only the second was laid before the Senate, and that as a secret communication. When it had been received, or why the other was kept back, does not appear. The letter communicated had probably reached the State Department not long before the nomination was made. Possibly the other, though prior in date, had not yet arrived; or, more likely, the president did not care, by communicating it, to show how much his choice of a minister had been guided by Talleyrand’s selection. The first letter, however, having probably been sent by Talleyrand himself for publication in America, made its appearance in print in the course of the following summer in Callender’s new paper at Richmond; Callender, since the death of Bache, disputing with Duane the editorial leadership of the opposition. In making the nomination, the president expressly pledged himself that Murray should not enter France without having first received direct and un

equivocal assurances from the French minister of Foreign Relations that he should be received in character, and that a minister of equal grade would be appointed to treat with him.

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The motives which might have operated on Adams's mind for making this nomination are sufficiently obvious. The almost universal anxiety for peace with France, for which the opposition seemed willing to sacrifice every thing, while even the Federalists professed a willingness to sacrifice every thing short of independence, national honor, and neutral rights, had prompted the mission of Pinckney, Marshall, and Gerry, in face of an express declaration of the Directory that they would not receive another minister from America till their alleged grievances had first been redressed. If true policy had required the institution of an embassy in face of a declaration like that, how was it possible entirely to disregard the assurances of Talleyrand, communicated through Pichon and Murray? assurances the most explicit and direct that could be made, short of the appointment of a French minister to America—a stretch of condescension hardly to be expected from the “terrible republic” toward a nation so weak as the United States, and rendered almost helpless by internal dissensions. There had no doubt been a great change in public sentiment since the appointment of the late rejected embassy. All the earnest efforts of Jefferson and his coadjutors had been unable to extinguish in their partisans the sense of national degradation; and many, especially in the Southern States, who had hitherto vehemently opposed the Federal administration, had come manfully forward to join in defending the national independence. But how far could this new-born zeal be relied upon? Would these new recruits to the Federal ranks, would the bulk

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even of the old Federal party support the administration in standing out against the advances of France, when they came to feel the burden of the new direct tax, for the collection of which the preliminary arrangements had been nearly completed, and of other taxes which must be imposed? This standing on the defensive was an expensive business. There was now no resource of bills of credit, as at the commencement of the Revolution, and to raise the five million loan it had been necessary to promise an interest of eight per cent. The costly naval and military establishments already on foot, and which it was proposed to enlarge, would require a great deal more of money; and Adams could foresee as well as Jefferson how this increase of expenses and taxes was likely to operate on public opinion. The zeal and enthusiasm kindled by the publication of the X, Y, Z dispatches was already subsiding. The opposition, though cowed and weakened, was by no means discouraged. The late nullifying resolutions of Kentucky and Virginia showed the extent to which the leaders in those states and their prompters behind the scene were ready to go. It was even threatened to introduce bills into the Virginia Assembly, such as the spirit of their resolutions demanded, nullifying the Alien and Sedition Laws, and authorizing resistance to them by the force of the state, and to that end to reorganize the militia.

It was plain, from Bonaparte's expedition to Egypt, to what a romantic pitch the military ardor of the French was carried. Should they attempt an expedition to America, against which the present naval predominance of England seemed the only security, who could tell what the result might be? Was it perfectly certain that the many devoted partisans of the French—was it certain that such men as Giles and Monroe, Gallatin

and Burr, even Jefferson himself, might not look on a French army more as liberators than as enemies, whose aid might lawfully be employed to put down a government denounced by Jefferson as having become more arbitrary and more dangerous to liberty than even that of England? Even if this foreign force were not availed of to overturn at once the government and the Constitution, it might still be employed to transfer the administration of it into new and so-called Republican hands; and the saving the country from the dangers of monarchy and British alliance might seem to a large faction to justify the risk of a subserviency to France, as pitiful and helpless as that of the Batavian republic, whose inscriptions Talleyrand had offered to the American envoys.

What might have added to the weight of these considerations was a letter which Adams had lately received from Washington, inclosing one from Barlow to himself of very nearly the same date (October 2, 1798), with Talleyrand's second letter to Pichon. In terms more decent and respectful toward his country than Barlow had of late been accustomed to use, and taking for his text the appointment of Washington as commander-in-chief of the American armies, he attempted to represent the present difficulties between France and the United States as growing out of a misunderstanding of each other's intentions. He insisted with emphasis on the desire of France for peace, as evinced not only by acts already done, but by intentions alleged by Barlow to be known to himself; and he ended with suggesting the appointment of another minister by the United States, as, under the circumstances, not inconsistent with the national honor.

In transmitting this letter to the president, which Feb 1

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Washington did immediately on receipt of it, he remarked that this was the only communication he had ever received from the writer, and that it must have been made either with a very good or a very bad design, the president could best judge which. "From the known abilities of that gentlemen, such a letter could not be the result of ignorance in him, nor, from the implications which are to be found in it, has it been written without the privity of the French Directory." "Should you be of opinion that his letter is calculated to bring on negotiations upon open, fair and honorable grounds, and to merit a reply, and will instruct me as to the tenor of it, I shall, with pleasure and alacrity, obey your orders, more especially if there is reason to believe that it would become a means, however small, of restoring peace and tranquillity to the United States upon just, honorable, and dignified terms, which I am persuaded is the ardent desire of all the friends of this rising empire."

But, however strong might be the motives prompting to Murray's nomination, there was one remarkable circumstance about it which exposed the president subsequently to many injurious suspicions and imputations. With that strong self-reliance and readiness to assume responsibility for which he was distinguished, and resolved to vindicate his personal prerogative as president even at the hazard of giving great dissatisfaction to many of the leading men who supported him, he made the nomination, not only without any consultation with his cabinet, and against what he knew to be the opinions of a majority of its members as well as of many leading Federalists out of doors, but without any forewarning to any body of what he intended; and from this moment a breach commenced between him and a section of the Federalists, which rapidly became complete and final

His reason for anticipating by action any knowledge of his intention was, his certainty of the decided opposition of his cabinet to the course which he was just as decidedly determined to take, and his wish to escape, as to this matter, what Fisher Ames had noted as a peculiarity of our government, that other governments found opposition after their measures were taken, ours in their very inception and commencement. The same policy, adopted by Adams on this occasion, of anticipating opposition by surprise, was afterward imitated in the cases of the embargo, the war with Great Britain, and the Mexican war, instances quite sufficient to raise the gravest doubts as to its propriety. There was this difference, however, between the cases, that Adams's surprise was upon his own counsellors and leading partisans, while the surprise in the other cases was upon the opposition and the body of the people.

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The nomination of Murray being referred by the Senate to a committee, of which Sedgwick was chairman, that committee took the unusual, and, as Adams esteemed it, unconstitutional course of attempting to persuade him to withdraw the nomination. Out of doors, also, a loud clamor was raised (the fact of the nomination having at once leaked out), the louder because, Talleyrand's letter to Pichon not being yet published, the public had no means whatever of perceiving that any change of circumstances had occurred since the president had declared in his speech at the opening of the session, but a few weeks before, that to send another minister to France without more determinate assurances that he would be received would be an act of humiliation to which the United States ought not to submit.

Though Adams refused to withdraw the nomination, yet, in consequence of the representations of the com-

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mittee, and of their expressed intention to report against confirming it, he sent another message, nominating Chief-justice Ellsworth and Patrick Henry, jointly with Murray, envoys extraordinary and ministers plenipotentiary to the French republic, the two former not to embark for France until authentic and satisfactory assurances should be received as to their reception.

Thus modified, the nomination was confirmed, **scarcely** against the inclination of a number of the Federal senators. But to reject it was a responsibility which they had not the courage to assume, leading, as it certainly would, to an immediate break up of the Federal party.

In consequence of suggestions from the Russian minister at London to the American minister there, the president had previously nominated, and the Senate had confirmed, King the minister at the British court, to negotiate at London a treaty of commerce with Russia, and Smith, the minister at Lisbon, to form a similar treaty with the Turks, both of those nations being at war with France; but the negotiations thus authorized were not pushed to any result. A consul general—a sort of ambassador to Toussaint—was also appointed for the island of St. Domingo, the French part of which was now wholly under the dominion of that famous negro chief.

The age and increasing infirmities of Henry obliged him to decline the appointment of ambassador to France; which he did in a letter, declaring that nothing short of absolute necessity could have induced him to withhold his little aid from “an administration deserving of gratitude and reverence for abilities and virtue.” General Davie, who had been chosen, a few months before, governor of North Carolina, was appointed in his place.

Jefferson meanwhile continued to labor for the over-

throw of the administration with that same persevering, unhesitating zeal which had prompted the nullifying resolutions of Kentucky and Virginia; but as in that matter, so now, according to his usual custom, he carefully avoided any exposure of himself, by any public use of his tongue or pen, to the dreaded quills of Porcupine and other Federal critics. Yet he was not, on that account, any the less busy, according to his established method, in stimulating others to the risk which he himself so sensitively shunned.

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In a letter of seeming sympathy and condolence, the same one already quoted for another purpose, Gerry was most earnestly pressed—and that, indeed, seems to have been the sole object of the letter—to imitate Monroe's example, and to attack the administration and his late colleagues "by full communication and unrestrained details, postponing motives of delicacy to those of duty." "It rests with you," so the writer went on, "to come forward independently, to make your stand on the high ground of your own character, to disregard calumny, and to be borne above it on the shoulders of your grateful fellow-citizens, or to sink into the humble oblivion to which the Federalists, self-called, have secretly condemned you, and even to be happy if they will indulge you with oblivion, while they have beamed on your colleagues meridian splendor." But while thus urging the aged Gerry, by this and many other like appeals to his pride, ambition, and revenge, to a course which could hardly fail to expose him to the most bitter personal attacks, we find in this same letter striking marks not only of Jefferson's constitutional timidity and exceeding care for his own comfort and safety, but also of that transparent simplicity with which he so often betrays himself in a manner almost incredible in one so artful and

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shrewd. "My trust in you," so the letter concludes. "leaves me without a fear that this letter, meant as a confidential communication of my impressions, may ever go out of your own hand, or be suffered in any wise to commit my name. Indeed, besides the accidents which might happen to it, even under your care, considering the accident of death to which you are liable, I think it safest to pray you, after reading it as often as you please, to destroy at least the second and third leaves. The first contains principles only, which I fear not to avow; but the second and third contain facts stated for your information, and which, though sacredly conformable to my firm belief, yet would be galling to some, and expose me to illiberal attacks. I therefore repeat my prayer to burn the second and third leaves. And did we ever expect to see the day when, breathing nothing but sentiments of love to our country, and its freedom and happiness, our correspondence must be as secret as if we were hatching its destruction? Adieu, my friend! and accept my sincere and affectionate salutations. I need not add my signature."

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Three days after the date of this letter to Gerry, Jefferson wrote to urge the superannuated Pendleton—now upward of eighty, and who, since the days of the Virginia Convention, in which the ratification of the Federal Constitution had been discussed, seems completely to have changed positions with Patrick Henry—to take up his pen to expose, in a manner "short, simple, and level to every capacity," the wicked use made of the French negotiation, particularly the X, Y, Z dish cooked up by Marshall, where "the swindlers are made to appear as the French government." Of this exposition, having for its object to show the sincerity and good will of the French Directory, and the "dupery" practiced on the

late envoys, it was proposed to print ten or twelve thousand in handbills, to be dispersed over the Union under the franks of members of Congress—a work to which Pendleton was urged by many compliments on the weight of his character and his happy talent at that sort of composition. In a second letter, a fortnight afterward, Pendleton was again pressed to the same undertaking, and furnished with additional suggestions toward it.

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Meanwhile, this indefatigable prompter addressed a letter to Madison, urging him also into the field. "The public sentiment being now on the careen, and many heavy circumstances about to fall into the Republican scale, we are sensible that this summer is the season for systematic exertions and sacrifices. The engine is the press. Every man must lay his purse and his pen under contribution. As to the former, it is possible I may be obliged to assume something for you. As to the latter, let me pray and beseech you to set apart a certain portion of every post-day to write what may be proper for the public. Send it to me while here, and when I go away, I will let you know to whom you may send, so that your name shall be sacredly secret. You can render such incalculable services in this way as to lessen the effect of our loss of your services here." The discord in the ranks of the Federalists, occasioned by the nomination of a new embassy to France, became at once perceptible to Jefferson's watchful eye, and nothing could exceed the delight with which he communicated to his political friends this new omen of victory.

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In the midst of the excitement occasioned by the nomination of new ambassadors to France, Lyon, having served out the term of his imprisonment and paid his fine, appeared in the House and took his seat. Harper immediately offered a resolution for his expulsion, alleg-

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ing for cause "that he had been convicted of being a malicious and seditious person, of a depraved mind and wicked and diabolical disposition, guilty of publishing libels against the president, with design to bring the government of the United States into contempt." Nicholas warmly objected to the introduction into the resolution of what he insisted to be the mere formal and technical language of the indictment; to which Bayard replied that the resolution stated nothing but what a jury had found to be true. The resolution was carried forty-nine to forty-five; but as it required two thirds to expel, Lyon still kept his seat. But when the session closed, he did not venture to return to Vermont, where not only more indictments, but pecuniary difficulties also, hung over his head. Since he had ventured into politics, his affairs had fallen into confusion, and he was now insolvent. Instead of returning home, he took refuge with his friend Senator Mason, of Virginia, Callender's late host, and, in a letter to the governor of Kentucky, proclaimed his intention of emigrating to that state at the head of a thousand families from Vermont.

It does not appear that either the senators or the representatives of Kentucky had ventured to lay before their respective houses the nullifying resolutions of that state, notwithstanding the injunction contained in them to that effect; nor had the resolutions either of Kentucky or Virginia found any favor with the state Legislatures. Those of Maryland, Delaware, Pennsylvania, New Jersey, New York, Connecticut, Rhode Island, Massachusetts, New Hampshire, and Vermont already had, or did soon after, expressly disavow the pretense set up of a right in the state Legislatures to decide on the validity of acts of Congress. The elaborate and argumentative reply of Massachusetts maintained, in addition, the con-

stitutionality of the Alien and Sedition Laws—the Alien Law being justified under the express power given to Congress to provide for the common defense against external enemies, and the Sedition Law under the power necessarily implied to sustain the officers of the government in the discharge of their duty against combinations and misrepresentations tending to interrupt the execution of the laws, if not, indeed, to the overthrow of the government.

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But, though the resolutions of Kentucky and Virginia met with no countenance from the sister states, and seem not even to have been laid before Congress, many petitions from private individuals had been presented in the course of the session, praying for a repeal of the Alien and Sedition Laws, and, indeed, of all the late acts for augmenting the army, navy, and revenue. These petitions had been referred to a special committee, Goodrich being chairman, by whom a very elaborate report had been made, maintaining both the constitutionality and the expediency of the laws in question.

When this report came up for discussion, the Federalists, satisfied with the argument of their committee, were for taking the question at once, especially as the session was so near its close, and so many important matters remained to be disposed of. “They held a caucus,” so Jefferson wrote, “and determined that not a word should be spoken on their side in answer to any thing which should be said on the other. Gallatin took up the Alien, and Nicholas the Sedition Law, but after a little while of common silence they began to enter into loud conversations, laugh, cough, &c., so that for the last hour of these gentlemen’s speaking, they must have had the lungs of a vendue-master to have been heard. Livingston, however, attempted to speak, but after a few

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sentences the speaker called him to order, and told him that what he was saying was not to the question. It was impossible to proceed. The question was taken, and carried in favor of the report, fifty-two to forty-eight. The real strength of the two parties is fifty-six to fifty, but two of the latter have not attended during this session."

Though the opponents of the Sedition Law talked a great deal about the liberty of the press, of which they even paraded themselves as the champions, it would be a great mistake to suppose that they placed their argument against that act upon any such broad and comprehensive ground as true regard for liberty of the press would require. They did not attack the principle of government prosecutions for libels, but only the exercise of any such power by the Federal government. The criminal law of libel was good law enough when administered by the states, but in the general government it was an unconstitutional assumption of power.

The common law on the subject of libel, as laid down in M'Kean's charge in the case of Cobbett, and as recognized in all the states, made and still makes a great and remarkable distinction between written and spoken slander; that is, between the license allowed to the tongue and that allowed to the pen. Spoken words are not indictable under any circumstance, nor can they be made the subject even of a private civil suit, unless some special damage can be shown to have resulted from them, or unless they contain the imputation of some crime, or imply professional incapacity on the part of the person implicated—thus assailing his life, his liberty, or his livelihood; and in all cases of spoken words, their truth constitutes a complete defense.

With respect to written words the law is vastly more severe. Any written words containing any disreputable

imputation of any sort, or though they merely tend to make a person ridiculous, may not only be made the subject of a private suit for damages, but the writer and publisher are also liable to be indicted for a crime against the public. Nor, at the time of which we are speaking, in case of such criminal prosecutions, could even the truth of the matters charged be given in evidence, by way of justification, except in the states of Pennsylvania, Delaware, and Vermont, which had inserted a provision to that effect into their recently-adopted Constitutions. The traditional reason for this distinction given by the law books is, that written libels tend to breaches of the peace. But do not spoken slanders have the same tendency? Do they not, in fact, give rise to frequent breaches of the peace, ending often in homicide? Then, again, as to the evil produced; it is true that written or printed libels, between which the law makes no distinction—though there is practically a much greater distinction between them than between written libels and words spoken—may have a wider circulation and a more permanent endurance, and so may produce a greater injury. But, on the other hand, written and printed libels exist in a definite shape, in which they may be met and refuted. If printed in newspapers or pamphlets, they can hardly fail to come to the speedy notice of the party concerned; whereas spoken slanders circulate privately behind a man's back, and may do irretrievable injury before their existence is known; and even when it is known, the fleeting and changing shape of all merely oral declarations may often occasion great difficulty in grasping them for refutation.

But, whatever may once have been the propriety of this distinction, (libels in writing or print showing greater malice and deliberation and tending to inflict a more

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permanent injury,) now that newspapers have become a necessary of life—a means, as it were, of carrying on an extended conversation between all the members of the community, the same indulgence and impunity which have been found necessary for the safety and comfort of verbal intercourse ought to be extended to this new method of talking, and the same means, and they only, relied upon for suppressing its abuses.

With respect, in particular, to political discussions and political newspapers, a freedom as wide as this, however it may often degenerate into license, seems quite indispensable. In all free states it has been found necessary to guarantee to the members of the Legislature perfect impunity for any thing said in their legislative character. This impunity is liable to be greatly abused, and it often is greatly abused by bad and malicious men; but without it, nothing like freedom of discussion, or the detecting and ferreting out of political abuses, could be expected. And why not grant a similar impunity—at least to the extent of freedom from criminal prosecutions—to those by whom politics are discussed before the tribunal of the whole people? Falsehood thus disseminated may be exceedingly grievous to the party belied; but being thus made to assume a distinct form, those parties have the advantage of detecting and exposing it. Very seldom, indeed, can it do them any permanent injury (in which case they have their remedy by private suit), while the dread of being publicly denounced, acts upon the less honest with tremendous force. The existence of one such fearless paper as the *Aurora*, however objectionable in many respects that paper might be, operated, beyond all question, as a greater check to misconduct on the part of the Federal officials than all the laws put together.

But it may be asked, why object to criminal prosecutions when the truth may be given in evidence? Because this is a concession in many cases, such as that of Lyon, for example, much more showy than substantial. Even when the facts charged are of such a nature as to admit of distinct proof, to bring witnesses might often be difficult, and would always be expensive. There is another objection, much more serious. What in political prosecutions for libel is charged as false allegation, very often is but mere statement of opinion, matter of inference, as to which testimony is out of the question; and often too these charges are made, like similar charges in a bill of equity, for the very purpose of driving the party accused to confess or deny the allegations.

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As all popular governments rest for support, not upon force, but upon opinion, assaults upon them limited to words ought to be repelled by words only. The press is open to the government also. To convict those who assail it of falsehood and malice by a candid exposition of facts, is the most certain means to destroy their influence. To appeal to the law will always expose to the charge of being driven by conscious guilt to silence by force, in default of reason, the complaints and criticisms of the people, part of whose right and liberty it is to complain and to criticise—a right and liberty of too delicate a nature, and too much intertwined with the first principles of freedom, to be rashly interfered with.

Such are some of the arguments by which the wisdom and expediency of that part of the Sedition Law relating to libels, as well as of the whole system of criminal prosecutions for libels in the state courts, might have been plausibly, if not, indeed, convincingly assailed. But nothing of this sort proceeded from the mouths of the opposition. They confined themselves very strictly to the

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constitutional argument. It was a special restriction of the powers of the general government, not the general liberty of the press for which they contended. Not a word was uttered against the exercise of that same power by the states, the exercise of which by the Federal government was denounced as fatal to liberty. The opposition argued, not like liberal statesmen and wise legislators, but only like violent anti-Federal politicians.

While the nomination of envoys to France was still pending, the bills for the increase of the navy had become laws. Two others relating to the same subject were passed shortly after, one embracing a code of rules for the naval service, the other creating a fund for navy hospitals by a reservation out of the monthly wages of seamen employed in the navy, similar to that authorized at the last session in case of merchant seamen. By a third act the marine corps was increased to a regiment of a thousand men. The Senate bill for a conditional increase of the army was also passed, as was another increasing the regiments of the standing force to a thousand men each.

The laws relating to intercourse with the Indians, to the post-office, and to the collection of the revenue, were revised and re-enacted, and, in compliance with the recommendation of the president in his opening speech, the officers of the United States were required to assist in the enforcement of the local quarantine laws. By an act for increasing their salaries the secretaries of state and of the treasury were henceforth to receive \$5000 each; the other two secretaries, \$4500; the attorney general, controller, treasurer, auditor, commissioner of the revenue, and postmaster general, \$3000 each; the registrar of the treasury, \$2400; the accountants of the war and navy departments, \$2000 each; the assistant

postmaster general, \$1700. The salaries of the clerks in the executive department were also increased, and a new tariff of fees was established for the officers, witnesses, and attorneys in the United States courts. This increase of salaries was most violently opposed, and a great clamor was raised against it out of doors. But no reduction was made when these very opposers came, soon after, to have the majority and the offices.

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The appropriations for the services of the current year, exclusive of the interest on the public debt and the conditional two millions for the augmentation of the army, but including some unexpended balances of former appropriations, amounted to nine millions, half of which was for the navy alone. The whole amount of means required for the service of the year exceeded thirteen millions of dollars. The resources for meeting this heavy expenditure consisted, in addition to the ordinary revenue, of the two million direct tax, the preparations for collecting which were now nearly completed, and of the five million loan lately filled at an interest of eight per cent.

In this time of need, the balances due from the states on the settlement of their Revolutionary accounts were again called to mind, and an act was passed offering to discharge all such debtor states as within a year would pass laws for paying within five years, or to expend within that time, in fortifications, a sum in stocks of the United States at their then market value, equal, at par value, either to the balance due or to the whole amount of the state debt which the United States had assumed. This latter alternative was intended to meet the case of New York, the balance due from which very considerably exceeded the amount of the debt of that state assumed by the general government, the United States being content

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to relinquish the surplus of their claim, if they could but get back the amount thus unadvisedly advanced. New York availed itself of this and the former act on the subject to make a partial payment by expenditures on fortifications; but nothing was got, or has been, to this day, from any of the other debtor states.

Meanwhile a naval action of some importance had occurred in the West Indies. Of the two French frigates by which Bainbridge had been captured, one had returned to France, manned in part, as we have seen, by impressed American sailors. The other, *L'Insurgente*, one of the very vessels with which the renegade Barney had blustered in the Chesapeake two years before, fell in with the *Constitution*, one of Barry's squadron, from which, however, she succeeded in escaping, the *Constitution* having carried away one of her top-masts in the chase. Though reckoned the best sailer in the French navy, *L'Insurgente* did not fare so well with the *Constellation*, the flag-ship of Truxtun's squadron, by which she was chased off the island of St. Kitt's, and brought into close action after a three hours' pursuit, during

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which the French frigate carried away her main top-mast. As to number of guns, the ships were about equal; but the *Constellation's* heavier metal gave her a decided advantage; and, after an action of an hour and a quarter, *L'Insurgente* struck her colors, having lost twenty killed and forty-six wounded. The *Constellation* had only three men wounded and one killed, but her rigging was considerably cut to pieces. The prize was manned and sent to the United States. The news, which arrived

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in America shortly after the adjournment of Congress, of this first action between French and American national ships, filled the Federalists with delight, while the

other party received it with dejection, as another obstacle in the way of peace.

The newly-appointed consul general for St. Domingo had already sailed thither, and, soon after, General Maitland, lately in command of the English forces there, arrived at Philadelphia from England, with whom, in conjunction with Liston, the English ambassador, an arrangement was entered into as to the trade of the island. Information having been received that Toussaint had complied with the conditions required, the president issued his proclamation reopening commerce. A civil war, which had broken out between Toussaint and Rigaud, rendered this trade at first less profitable than had been hoped; but an order from France presently removed Rigaud from his command, and the Spanish part of the island having submitted also to Toussaint's authority, he became sole governor of the whole. He still acknowledged, in name, the authority of the French republic, but acted in all things as an independent chief. During eight years of civil war the island had suffered severely, but a considerable number of the old white proprietors still remained in it, to whom Toussaint extended every protection. He even invited back those who had fled to the United States and elsewhere, an invitation which several accepted. Many of the late slaves were willing to work for wages or on shares; and, under Toussaint's judicious rule, the agriculture of the island began to revive.

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VIRGINIA, NEW YORK, PENNSYLVANIA. REVISION OF THE CONSTITUTION OF KENTUCKY. JUDICIAL DECISIONS. NULLIFICATION. EMBARKATION OF THE ENVOYS TO FRANCE. DIVISION OF THE FEDERAL PARTY. COMMISSIONS UNDER THE BRITISH TREATY SUSPENDED. FIRST SESSION OF THE SIXTH CONGRESS. DEATH OF WASHINGTON. INDIANA TERRITORY. NAVAL AFFAIRS.

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PENDING the session of Congress, a warm canvass had been going on in Virginia preliminary to the March elections. The Federal party now, for the first time, had become strong enough, in that state, to offer battle to the opposition. Though much occupied in corresponding with the Secretary of War and others as to the organization of the additional regiments and of the army generally, Washington entered with great zeal into this canvass. In a letter to Patrick Henry, urging him to offer, if not as a candidate for Congress, at least for the Assembly, he very fully expressed his sentiments. "It would be a waste of time," he wrote, "to attempt to bring to the view of a person of your observation and discernment the endeavors of a certain party among us to disquiet the public mind with unfounded alarms, to arraign every act of the administration, to set the people at variance with their government, and to embarrass all its measures. Equally useless would it be to predict what must be the inevitable consequences of such a policy, if it can not be arrested.

"Unfortunately, and extremely do I regret it, the

State of Virginia has taken the lead in this opposition. I have said the state, because the conduct of its Legislature, in the eyes of the world, will authorize the expression, and because it is an incontrovertible fact that the principal leaders of the opposition dwell in it, and that, with the help of the chiefs in the other states, all the plans are arranged and systematically pursued by their followers in other parts of the Union ; though in no state except Kentucky, that I have heard of, has legislative countenance been obtained beyond Virginia.

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“ It has been said that the great mass of the citizens of this state are well affected, notwithstanding, to the general government and the Union ; and I am willing to believe it—nay, do believe it ; but how is this to be reconciled with their choice of representatives, both to Congress and their state Legislature, who are opposed to the general government, and who, by the tendency of their measures, would destroy the Union ? Some among us have endeavored to account for this inconsistency ; but, though convinced themselves, they are unable to convince others, unacquainted with the internal policy of the State.

“ One of the reasons assigned is, that the most respectable and best-qualified characters among us will not come forward. Easy and happy in their circumstances at home, and believing themselves secure in their liberties and property, they will not forsake their occupations, and engage in the turmoil of public business, or expose themselves to the calumnies of their opponents, whose weapons are detraction.

“ But at such a crisis as this, when everything dear and valuable to us is assailed ; when this party hangs upon the wheels of government as a dead weight, opposing every measure that is calculated for defense and self-

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preservation, abetting the nefarious views of other nations upon our rights, preferring, as long as they dare contend openly against the spirit and resentment of the people, the interest of France to the welfare of their own country, justifying the former at the expense of the latter; when all the acts of their own government are tortured, by constructions they will not bear, into attempts to infringe and trample upon the Constitution, with a view to introduce monarchy; when the most unceasing and the purest exertions which were made to maintain a neutrality, proclaimed by the executive, approved unequivocally by Congress, by the state Legislatures, nay, by the people themselves in various meetings, and to preserve the country in peace, are charged with being measures calculated to favor Great Britain at the expense of France, and all those who had any agency in it are accused of being under the influence of Great Britain and her pensioners; when measures are systematically and pertinaciously pursued which must eventually dissolve the Union or produce coercion; I say, when these things have become so obvious, ought characters who are best able to rescue their country from the pending evil to remain at home? Rather, ought they not to come forward, and by their talents and influence stand in the breach which such conduct has made on the peace and happiness of this country, and oppose the widening of it?

“Vain will it be to look for peace and happiness, or for the security of liberty or property, if civil discord should ensue. And what else can result from the policy of those among us who, by all the measures in their power, are driving matters to extremity, if they can not be counteracted effectually? The views of men can only be known or guessed at by their words or actions.

Can those of the *leaders* of the opposition be mistaken if they are judged by this rule? That they are followed by numbers who are unacquainted with their designs, and suspect as little the tendency of their principles, I am fully persuaded. But if their conduct is viewed with indifference; if there are activity and misrepresentation on one side, and supineness on the other, their numbers accumulated by intriguing and discontented foreigners under proscription, who were at war with their own governments, and the greater part of them with all governments, they will increase, and nothing short of Omnicience can foretell the consequences." "There are, I have no doubt, very many sensible men who oppose themselves to the torrent, that carries away others who had rather swim with than stem it, without an able pilot to conduct them; but these are neither old in legislation nor well known in the community. Your weight of character and influence in the House of Representatives would be a bulwark against such dangerous sentiments as are delivered there at present. It would be a rallying-point for the timid and an attraction for the wavering. In a word, I conceive it to be of immense importance, at this crisis, that you should be there; and I would fain hope that all minor considerations will be made to yield."

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This letter of Washington's, it is curious to observe, was written almost simultaneously with those of Jefferson, already quoted, to Gerry, Pendleton, and Madison, stimulating them to new attacks on the administration. Of the leaders of the opposition referred to in it, and of whom Washington, in a previous letter to his nephew Bushrod, had remarked that "they had points to carry from which no reasoning, no inconsistency of conduct, no absurdity can divert them," Jefferson was undoubt-

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edly the chief; and this letter alone is quite sufficient to settle the mooted, but in no respect doubtful question of Washington's final opinion of his once-trusted Secretary of State.

The aged patriot to whom Washington addressed himself did not turn a deaf ear to the appeal. Few are insensible to personal motives, and, besides those political considerations urged by Washington, Henry had strong personal reasons for thinking well of, and giving his support to, that system of government which he had once so vehemently opposed. Within a few years past he had entered extensively into the prevailing land speculations, and, more judicious and fortunate than many others, had been made wealthy by the appreciation of his landed property. He offered himself as a candidate for the House of Delegates, and was elected, as usual, by a large majority. But he did not live to take his seat; and the Federal party thus unfortunately lost, at this critical moment, the much-needed support of his influence and eloquence.

Of the Federal candidate for Congress in his own district Washington was a zealous supporter, and he rode ten miles on the day of election in order to deposit his vote. Of the nineteen members to which Virginia was entitled, the Federalists carried eight, including Henry Lee and Marshall, the latter chosen from the Richmond district. Of the ten North Carolina members, the Federalists carried seven, also five out of six in South Carolina, and the two of Georgia.

April. The Legislature of New York, of which state the seat of government had been transferred to Albany two years before, had enacted, at its session lately terminated, two laws of historical importance. One was an act for the gradual extinguishment of slavery, a measure which

Governor Jay had much at heart, and which, after three previous unsuccessful attempts, was now at last carried. Those who were slaves at the passage of the act were to continue so for life ; but all their children born after the 4th of July then following were to be free, to remain, however, with the owner of the mother as apprentices, males till the age of twenty-eight, and females till the age of twenty-five. The exportation of slaves was forbidden under a pecuniary penalty, the slave upon whom the attempt was made to become free at once. Persons removing into the state might bring with them slaves whom they had owned for a year previously ; but slaves so brought in could not be sold.

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The other act was of a very different character. It established the Manhattan Company, with a perpetual charter, and a capital of two millions—a scheme concocted by Chancellor Livingston and other leading members of the opposition, and carried through the Assembly by the address of Burr, who was this year a member ; the object being to strengthen the hands of the opposition by establishing a bank of which they should have the control, the other two banks in the city of New York, the New York Bank and the United States Branch Bank, being in the hands of the Federalists. Had this design been suspected, it never could have been carried into execution ; but Burr contrived to get the bill through without any hint of its actual intention, except to a few of his brother members, who he knew could be relied upon. Taking advantage of the discussions which the yellow fever had occasioned as to the necessity of procuring a supply of pure water for the city of New York, the object of the Manhattan Company purported to be the procuring such a supply. But the Company was only bound to furnish water within ten years to such

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citizens as might choose to take it, on such terms as the company might prescribe; and under a clause authorizing the employment of the company's surplus capital in the purchase of stocks "or any other moneyed transactions or operations," a right of banking was claimed as soon as the charter was granted, and was avowed as the great object of the company, to which the water was only a cover. In its immediate operation, at least, this piece of trickery did not much strengthen the opposition, for in the state election which followed the close of the session, the Federalists obtained a decided victory.

The Legislature of Pennsylvania, during their session, had passed an important act for quieting the New England settlers under Connecticut grants prior in date to the Trenton decision. The state undertook to indemnify the claimants of the same lands under Pennsylvania grants by paying them certain sums per acre, according to the quality of the lands arranged for that purpose into four classes; but a part of this indemnity was to be contributed by the Connecticut holders. Thus at last was an effectual step taken toward a settlement of this protracted and troublesome controversy.

Shortly after the adjournment of Congress, one of the natural results of the late violent assaults on the authority of the Federal government made its appearance in Pennsylvania. The direct tax was to be levied, among other things, on houses, arranged in certain classes; and among other prescribed means for making that classification was a measurement of the windows. In the counties of Northampton, Bucks, and Montgomery, a violent opposition had been made to this measurement, principally on the part of the German inhabitants, so much so that those employed in it had been obliged to desist. Warrants were issued from the District Court of Penn-

sylvania against the rioters, and the marshal arrested some thirty persons; but in the village of Bethlehem he was set upon, and his prisoners were rescued by an armed party of fifty horsemen, headed by one Fries. The president immediately issued a proclamation requiring submission to the laws. He called upon the governor of Pennsylvania for a detachment of militia; and some troops of light horse detailed for this purpose, being joined by several companies newly enlisted for the additional regiments, marched at once into the disturbed counties. The commanding officer put forth an address to the inhabitants, showing how little reason they had to complain, as the money was wanted for national defense, and the law was so arranged as to favor the poor, the ratio of the tax to the worth of the house increasing largely with the increase of value. No opposition was made to the troops, and Fries and some thirty others were secured and carried to Philadelphia. Fries was indicted for treason, and in spite of the efforts of Dallas, aided by Lewis, a Federal lawyer, among the ablest in the state, who argued that his offense amounted only to riot, he was found guilty. The court held that to resist a law by force, with intent to defeat its execution altogether, amounted to levying war. But as it appeared after verdict that one of the jury, previous to being empaneled, had expressed his opinion that Fries ought to be hung, a new trial was granted. Several of Fries' companions were found guilty of misdemeanor. While these trials were going on, the Aurora continued to be filled with unfounded aspersions on the officers and soldiers employed to arrest Fries. They were charged with living at free quarters on the inhabitants, and with chaining their prisoners in a manner so negligent or vindictive, that some old men had their wrists worn to the bone by

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the handcuffs. As the editor, when called upon for that purpose by a deputation of the officers, refused to fix the imputation on any particular corps, thus leaving it doubtful if there were any remedy at law, two or three of them were deputed to give him a sound beating, which was administered accordingly on his own premises, a chief actor in the affair being a son of Chief-justice M'Kean, who had commanded one of the militia troops of horse. A similar castigation had been previously inflicted upon the editor of a German paper at Reading, which had been filled with still more scandalous libels on the conduct of the troops, accused of beating women and children, and other like outrages. This attempt of the officers to revenge themselves was at once seized upon by all the opposition papers as the first fruits of incipient military despotism. Not satisfied with the trifling fines inflicted for this breach of the peace, Duane commenced a civil suit against young M'Kean; and this affair, in the end, was not without an important influence on the politics of Pennsylvania.

Already a very vigorous canvass was going on for the chief magistracy of that state. Mifflin's third term of office was now about to expire, and the Constitution would not allow of his re-election, for which, indeed, his habitual drunkenness and declining health but very ill qualified him. The administration of the government, for some time past, had been almost entirely controlled by Secretary Dallas and Chief-justice M'Kean, and with a view to continue power in the same hands, M'Kean was brought forward as the Republican candidate by a sort of caucus or meeting of some active politicians. The Federalists nominated Senator Ross, and the canvass begun to be carried on in a very bitter spirit. Two objections were principally urged against Ross, both rather

curious as coming from a party of which Jefferson was the great leader, and Gallatin a principal champion. One was a suspicion that Ross' religious views were not orthodox, he having voted in convention against that clause of the Constitution of Pennsylvania which required all office-holders to acknowledge "the being of a God, and a future state of rewards and punishments," whereas M'Kean was a very orthodox Presbyterian, and had voted for that clause, without which, as he had remarked, the state might have atheists in office. The having contributed, by his avowed hostility to the Excise Law, to bring about the Whisky Insurrection, constituted a second objection to Ross. Yet in all this there was not wanting a sort of wily policy. The Republicans were sure to vote against Ross at any rate, because he was not of their party, and these objections were only intended for weak-minded Federalists.

Somewhat later in the season a convention met in Kentucky to revise the Constitution of that growing state. George Nicholas, the draughtsman of the former Constitution, and the nominal author of the late nullifying resolutions, was recently dead. Of the present Assembly, John Breckenridge, a lawyer of eminence, who had been president of the Democratic Society of Lexington, was the leading spirit. The chief change in the Constitution related to the choice of senators and governors, which were given directly to the people, the counties to be arranged into as many districts as there were senators, one fourth of the number to vacate their seats annually, the senatorial term, as under the first Constitution, to be four years. Some attempt was made to introduce a provision for the gradual abolition of slavery, an attempt supported by Henry Clay, a recent immigrant from Virginia, a young lawyer, who commenced a po-

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litical career of half a century, by holding a seat in this Convention. The attempt met, however, with very feeble support, and, so far as related to the subject of slavery, the Constitution underwent no change.

A similar proposition for the gradual abolition of slavery had been introduced a short time before into the Maryland Assembly, but it found so little encouragement there as to be withdrawn by the mover. Even in Pennsylvania, a proposition introduced into the Assembly for the immediate and total abolition of slavery, though supported by the earnest efforts of the Pennsylvania Abolition Society, failed of success. The contemporaneous act of the state of New York for the gradual abolition of slavery, has been already mentioned.

Two judicial decisions, made in the course of the summer, furnished the opposition to the general government with new topics of bitter complaint. In the year 1797 a mutiny had occurred on board the British frigate *Hermione*, then in the West Indies; several of the officers had been killed, and the vessel, having been carried into La Guayra, on the Spanish Main, had there been sold by the mutineers. In the course of the present summer, one Thomas Nash, former boatswain of the *Hermione*, and an active leader in the mutiny, had made his appearance at Charleston, in South Carolina, under the name of Nathan Robbins, and having betrayed himself by imprudent boastings, had been arrested at the instance of the British consul, under that clause of Jay's treaty which provided for the mutual surrender of forgers and murderers. Application having been made to the president on the subject, he wrote to Bee, the district judge, to give the prisoner up on proof of identity and the production of such further evidence as would justify his apprehension and commitment for trial had the offense

occurred within the jurisdiction of the United States. The ground taken by the president was, that a national ship of war on the high seas formed a part of the jurisdiction of the nation under whose flag she sailed.

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To avert his impending fate, the fugitive mutineer assumed the name of Jonathan Robbins, produced a notarial certificate or "protection" granted in New York, in 1795, to a person of that name, and also made an affidavit that he was born in Danbury, in Connecticut, and that two years before he had been pressed into the British service. In spite, however, of these documents, his identification as the Thomas Nash of the *Hermione* being complete, he was delivered up, and, being carried to Halifax, was tried by a court martial, found guilty, and hanged. He confessed at his execution that he was an Irishman, and it appeared by the *Hermione's* books that he had entered the service at the beginning of the war, being entered as born at Waterford. But before the result of this investigation had become known, a great clamor had been raised against the president and Jay's treaty, Charles Pinckney, lately chosen a senator from South Carolina, of which state he had just ceased to be governor, and who had acted as counsel for the prisoner, taking a very active part in it. The president was charged with having given up an American citizen to be tried for a mutiny, in which, if he really did join it, he was justifiable enough, since he had been pressed into the British service; and even after the result of the Halifax court martial was known, the same accusation was still continued, the proof adduced on the trial being represented as manufactured for the occasion.

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The other case was that of Isaac Williams, one of those American renegadoes who, under color of being naturalized as French citizens, had enriched themselves by pri-

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vateering, under the French flag, against American as well as British commerce. After making himself rich and notorious by this discreditable means, Williams had the audacity to return to Connecticut, his native state, there to enjoy his ill-gotten gains. But he was speedily arrested and indicted under that clause of Jay's treaty which prohibited privateering by American citizens against British commerce. The trial came on before Chief-justice Ellsworth—one of the last cases on which he ever sat—and he instructed the jury that Williams, notwithstanding the French letters of naturalization produced in his defense, was still subject to American law, it not being in the power of any man to throw off by his own volition the allegiance to the country in which he had been born. Under this doctrine—held at the present day, by the decided weight even of American authority, to be good law, and never questioned in any other country—Williams was found guilty, and fined and imprisoned; very much to the dissatisfaction of the ultra Republican sympathizers with France, and advocates of the right and power of expatriation.

Another point of law which furnished still further occasion for clamor and alarm was the claim, since abandoned, but then vigorously maintained, of a common law criminal jurisdiction in the Federal courts—the right, that is, without any special statute, to punish by fine and imprisonment, *such* acts as, without any special statute, were indictable by the common law of England and the states, whenever committed under such circumstances as would bring them within the general range of Federal jurisdiction. Edmund Randolph, who, since his dismissal by Washington, had remained in perfect political obscurity, though enjoying an extensive practice as a lawyer, attempted to recall attention to himself by

a pamphlet against this doctrine,—a work in which he was strenuously encouraged by Jefferson.

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Nor did Jefferson exhibit any disposition to give up his own doctrine of nullification, notwithstanding the repudiation of it by so many states. After a consultation between him, Madison, and Wilson C. Nicholas, it was agreed that Madison, who had now again come actively forward, (having been chosen to the House of Delegates on purpose to oppose Patrick Henry,) should draw up a report in answer to the various objections urged against the resolutions of the last session. To make this report as palatable as possible, it was to express great attachment to the Union, and indisposition to break it for slight causes. Jefferson wished, indeed, a positive reservation of the right to make the recent alleged violations of the compact, should these violations be continued or repeated, “the ground of doing hereafter what might rightfully be done now;” but the more cautious and moderate Madison preferred to argue the abstract point of mere right, without going so far as to suggest any actual exercise of it, either present or future. And, indeed, if such a right really existed, Jefferson’s proposed reservation was quite superfluous, since any violation of the contract, continued or renewed, would, without any reservation, itself afford ground enough for action.

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The management of matters in Kentucky was intrusted to Wilson C. Nicholas, then about to make a journey thither to look after the affairs of his deceased brother. He employed as the active agent John Breckenridge, already mentioned, on whom, since the death of George Nicholas, the political leadership of that state had devolved. “To avoid suspicions, which were pretty strong in some quarters on the late occasion,” so he himself tells us, Jefferson omitted to prepare any thing in writ-

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ing; yet, except a preamble complaining of the terms in which, in some of the states, the former resolutions had been denounced as incompatible with the Federal Union, but declining argument, the material part of the resolutions brought forward and adopted was mainly copied from such portions of Jefferson's original draft as Nicholas had omitted; especially the famous declaration that, in cases of violations of the Constitution, "the several states who formed that instrument, being sovereign and independent, have the unquestionable right to judge of the infraction, and that a nullification by those sovereignties of all unauthorized acts, under color of that instrument, is the rightful remedy." But the Kentucky politicians, for all these bold words, were even less disposed than at the former session to commit themselves to any positive action. Content with asserting the general principles in the abstract, even the verbal nullification of the Alien and Sedition Laws was not repeated, the Legislature being satisfied instead with a mere protest against their constitutionality.

Madison performed his part of the programme by bringing forward, a few weeks after, in the Virginia Assembly, a long and elaborate report, assuming to justify the resolutions of the preceding session as "founded in truth, consonant with the Constitution, and conducive to its preservation;" but winding up, in the same inconclusive manner as the Kentucky resolves, with a mere protest against the unconstitutionality of the Alien and Sedition Laws. In spite of the stimulus of party spirit, Madison had not so far forgotten his large share in framing the Constitution and procuring its adoption, as to be willing to sanction, as a right reserved to and vested in the states, a veto upon the laws of the Union wholly incompatible with any quiet exercise of the federal authority; and his

report, while pretending to justify the resolutions, in fact abandoned them in their essential part. The assertion in the Virginia resolutions of '98 of a right in the individual states, in cases of palpable violations of the Constitution, "to interfere for arresting the progress of the evil, and for maintaining, within their respective limits, the authorities, liberties, and rights appertaining to the states," was now explained to mean nothing more than a general right of resistance, not the right of the states particularly, or at all growing out of their federal relations, but that general right of human nature fully admitted on all sides to resist, and when other means should fail, to attempt to rectify by force, intolerable grievances and oppressions—a right which no American ever thought of disputing, and which it was hardly necessary to set forth in legislative resolutions.

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The same Legislature which adopted this report expressed their confidence in Monroe and approval of his policy by electing him governor of the state.

Immediately after the confirmation by the Senate of the new envoys to France, a letter had been written to Murray, at the Hague, directing him to convey information of that appointment to the French government, to which was to be added that the other two envoys would not embark for Europe without direct and unequivocal assurances from the Directory, previously given through their minister for foreign affairs, that the new ambassadors would be received and admitted to an audience in their official character, and a minister of equal grade be appointed to treat with them. At the same time, Murray was directed to have no more informal communications of any kind with any French agents.

In answer to Murray's communication, Talleyrand had hastened to give assurances, in the terms required, May 5

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not without expressions of regret that the negotiation should be so long delayed for the mere confirmation of what he had so repeatedly declared to Gerry.

Upon the arrival in America of these assurances, in spite of the known reluctance of the majority of his cabinet, the president, who had been at Braintree since the close of the session, directed orders to be sent to the envoys to prepare for immediate embarkation ; and that the Secretary of State, with the assistance of the other heads of departments, should immediately draw up and send to him for approval a draft of instructions. The two principal points of these instructions, indemnity for the spoliations heretofore committed on American commerce, and freedom for the future from any obligation to guarantee any part of the French dominions, had been agreed upon previous to the president's leaving Philadelphia ; but the preparation of the instructions in detail, including a draft of a new treaty as a substitute for the present ones, had been delayed, perhaps, by the reluctance of Pickering, but partly, also, by the reappearance of the yellow fever, which had again compelled the removal of the public offices to Trenton.

As finally agreed to, the instructions directed that, if Talleyrand's assurances were not promptly fulfilled, and the negotiation commenced within twenty days after the arrival of the envoys at Paris, and continued in good faith, they should at once demand their passports and leave France without listening to any fresh overtures ; nor, unless for special reasons, were they to allow the negotiation to be protracted beyond the first of the ensuing April. Indemnity for spoliations and release from the guarantee, indeed from all the obligations of the old treaty of alliance and commerce and of the consular convention, were to be insisted upon as had previously been

agreed; also the repeal of the French decree for confiscating neutral vessels having English merchandise on board. In other respects, the instructions corresponded with those given to the former envoys.

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By the time these instructions were nearly ready, news arrived of the Revolution in France of the 30th Prarial (June 18th), by which the whole Directory, except Barras, had been changed—a consequence of the severe reverses which the arms of the Republic had lately experienced. Accounts of these reverses, arriving from time to time in America, had increased the disinclination felt from the beginning by many of the active Federal leaders for any renewal of diplomatic intercourse with France; and they eagerly insisted upon the recent change as a reason for further delay. Who could tell if the new Directors would hold themselves bound by the assurances of the old ones? Further revolutions were also foreseen. Such, of late, had been the rapid successes of the allies, the Arch-duke Charles triumphant on the Rhine, and the French quite driven out of Italy by the arms of Suwarrow, and Bonaparte absent and unsuccessful, perhaps already slain in the East, that even the Republic itself seemed in danger. Indeed, the restoration of the Bourbons began to be talked of as an event by no means improbable; Murray's recent dispatches were all in that strain; and the whole cabinet concurred in a letter to the president suggesting the suspension of the mission. Ellsworth also wrote to him to the same effect.

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Before coming to a final decision, the president resolved to proceed to Trenton. When he reached that place he found Davie already there. Ellsworth, whom the president had seen and talked with on the way, arrived a day or two after. Hamilton, accompanied by General Wilkinson, happened also to be present on af-

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fairs of the army; but Adams strongly suspected his real business to be, to overlook the deliberations of a cabinet, of which he afterward vehemently complained that it was more Hamilton's than his. Well knowing, from many conversations with its separate members, what their opinions would be, and the instructions having been at last finally arranged, the president, as on the former occasion of the nomination of Murray, issued directions, without any special cabinet consultation, that the envoys should embark as speedily as possible in the frigate *United States*, then lying at Newport ready to receive them.

This second slight put upon their opinions, and disregard of what they seem to have esteemed their right to be consulted, made a final and permanent breach between the president and three of his secretaries. Stoddert, the Secretary of the Navy, who had exhibited great energy and ability in that department, and Lee, the Attorney General, were by no means so strenuous in opposing the departure of the envoys, being inclined to defer to the president's judgment in that matter. The three offended secretaries complained, in addition, of what they seemed to consider an unjustifiable finesse, and which did, indeed, show a certain adroitness on the part of the president, his obtaining their concurrence in the instructions, without giving them an opportunity to protest against the mission itself, which, by agreeing to the instructions, they might even seem to have approved. But, though all confidence between them and the president was now at an end, they still continued to hold their places. Their position in Adams's cabinet bore a certain resemblance to Jefferson's in that of Washington. They appear to have been influenced by the hope of availing themselves of their official position to secure a successor to Adams

whose policy might more conform to theirs, and of acting, meanwhile, as far as might be, as a clog upon those measures which they did not approve; while Adams, on his part, hesitated to widen the already alarming breach in the Federal party by actually turning them out of office.

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The objections on the part of Pickering, Wolcott, and M^r Henry, to a renewal of diplomatic relations with France—objections in which Hamilton and a large number of the more zealous Federalists concurred—were ostensibly based upon doubts as to the sincerity of the French government; the impossibility of relying with confidence upon any stipulations made by Talleyrand; and the idea that the honor of the country did not allow any further advances on our part, while the piratical French decrees against American commerce remained unrepealed. Washington himself was strongly disposed to this view, though, with his usual candor and caution, he declined to express a definitive opinion as to a matter the whole of which did not lie before him.

But, while such were the objections openly urged, what, no doubt, had quite as much real weight, whether the parties so influenced were perfectly conscious of it or not, was the effect which the resumption of negotiations might have and would be likely to have on the domestic politics of the country.

The manly resistance made by the Federalists to the insults and aggressions of France seemed to give them a hold upon the public mind such as they had never possessed before. The self-styled Republican party, having come forward as advocates of submission, had withered and wasted under the meridian blaze of an excited patriotism; and, as a means of keeping up that feeling, and raising it to a still higher pitch, many of the more ardent

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Federalists were ready and anxious for open war; especially now that the declining fortune of the French republic made her much less formidable as an adversary than she had seemed to be a year or two before.

The late wrongs and insults of the French rankled deeply in ardent bosoms. A large part of the more intelligent and better-educated people—and of such the Federal party was composed—had lost all that attachment for France which, contemporaneously with the French alliance, had sprung so suddenly into existence, and which the early progress of the French Revolution had raised to a high pitch of enthusiasm. That short-lived attachment was now, on their part, replaced by a feeling compounded of old traditional prejudices against the French, and of that horror, dread, and detestation which the atrocities of the Revolution, the overbearing insolence of the Republic, and, in particular, the abolition of the Christian worship, had combined to excite. It began to be argued, and with a good deal of plausibility, that the French alliance had never been of any advantage to America; that, so far from having secured our independence, as the French and their partisans alleged, it had, by arousing in Great Britain a bitter spirit of national jealousy, operated to protract a contest which, but for the interference of France, would have been much sooner ended, and without leaving behind it such deep traces of anger and hate. France, so it was argued, had originally espoused our cause, not from any love to us, but from desire to injure Great Britain. Proofs of her selfishness in this respect, derived from the French archives, had been brought over by Genet, and had been made public with the very view of showing that America owed no debt of gratitude to the fallen monarchy. These documents had served to give new strength to the

old suspicions that, in the negotiation of the treaty of peace, France had played us false in the matter of the fisheries and the Western boundary ; and it was even endeavored to reflect back the recent insolence and bad faith of Talleyrand and the Directory upon Vergennes and Louis XVI., who seem (however some might have thought otherwise) to have always conducted toward the United States with candor and generosity. In the same spirit an attempt was made to trace back that French influence, so conspicuous in the United States within the last few years, to a still earlier period. The journals of the old confederation were quoted to show that the instructions, to submit themselves in all things to the direction of France, given to the American commissioners for negotiating peace, had been carried against New England by the votes of Virginia and the South. Subserviency to France, which it was thus attempted to fix upon Virginia even at that early day, lay at the bottom, so it was argued, of the whole opposition to the Federal government, and to counteract and destroy it nothing would so effectually serve as war with the French republic ; or, if the people could not be brought to that, a continuance in the existing position of commercial non-intercourse and resistance to aggressions.

This, as must be evident at a single glance, was a very different position from that occupied by Adams and the Federal party at the commencement of his administration. It was going quite as far against France, and for very similar reasons too, as the opposition had been inclined to go against England ; a complete abandonment of that system of neutrality which Washington had proclaimed, and upon which Adams had insisted, as at once the right and the true policy of America. Because a portion of the Federalists had changed their views, was

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Adams obliged to change with them? Was he, as a party political expedient, to assume the terrible responsibility of plunging the nation into all the sufferings, expenses, and dangers of a war? Even as a party expedient, was the policy of protracting the dispute with France so certain? All the considerations already suggested as motives for the nomination of Murray would weigh equally strong in favor of proceeding with the mission. How little to be relied upon the recent outbursts of Federal feeling really were, was apparent in the result of the Pennsylvania election, just concluded, in which M'Kean had been elected governor by twenty-eight thousand votes to twenty-three thousand for Ross, the Federal candidate. Nor did there seem any great force in the reasons urged for delaying the mission. The harder pressed the Directory were, the more likely they would be to treat. And even in case the Republic should fall, there would be no harm, as Adams suggested, to have envoys present on the spot to welcome the restoration of the ancient monarchy. So fluctuating were the chances of war, that before the envoys reached France, the fortunes of the Republic had begun again to ascend; and had negotiation been unprovided for, the speedy European peace that followed would have left America to fight alone; or, that being out of the question, as it would have been, to accept such terms as France might choose to dictate.

The wisdom of the mission thus justified, as well on general considerations as by the actual result, it will not take long to dispose of the imputations against its author, freely thrown out at the time, and since so often reiterated. The principal of these imputations are, jealousy of Hamilton, to whom a war would be likely to bring great addition of influence and reputation, and the

hope, by appeasing the hostility of the opposition, to secure his own re-election. Give to these motives all the force which, under the circumstances, they can be presumed to have had—and that Adams was quite accessible to such motives is not to be denied—yet they prompted to no sacrifice of the country's interest or honor; at the most, they only tended to confirm a resolution wise and good in itself. Making due allowance, then, for the natural infirmities of humanity—the more necessary in the case of a man like Adams, the ungovernable vehemence and incautiousness of whose temper, a most striking contrast to Jefferson's, made his weaknesses but too patent to the world—and in spite of the somewhat misplaced sneers of Jefferson and others, who profited by his fall; in spite of what he himself felt infinitely more, the anger and obloquy of many of his former political supporters—an obloquy which clouded the long remainder of his life, souring his temper, embittering his heart, and making him, as to certain persons, excessively unjust—it is yet impossible to discover, in the institution of this second mission to France, anything to conflict with that character for honesty and independence which Franklin and Jefferson, neither of them partial judges, had united to bestow upon Adams; and in which the general voice of his country, including even his political opponents, had, down to this moment, almost unanimously concurred.

Nor will a due sense of historical justice allow us to stop here. Whatever, on this memorable occasion, might have been the mixture of personal motives in Adams's conduct, no reason appears to esteem it so great as materially to detract from the merits of an action of the highest and noblest class which it ever falls to the lot of statesmen to perform; that of boldly risking their own

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personal popularity to secure to their country an honorable peace. Adams seems, in fact, to have been right, when, long after (1809), in the freedom of confidential correspondence, he asserted that this, the most questioned of all his actions, was "the most disinterested, the most determined, prudent, and successful of his whole life." "I was obliged," he added, "to give peace and unexampled prosperity to my country for eight years—and if it is not of longer duration it is not my fault—against the advice, entreaties, and intrigues of all my ministers, and all the leading Federalists in both houses of Congress." In the agony of present suffering, groaning like the chained Prometheus or the mountain-buried Titan under the "intolerable load of obloquy and insolence" heaped upon him by the "eternal reviling" of the Federal newspapers—revilings renewed at that moment in consequence of the political course adopted by his son—he despaired of and almost spurned at the justice of history. "Too many falsehoods are already transmitted to posterity that are irrevocable. Records themselves are often liars. No human being but myself can do me justice; and I shall not be believed. All I can say will be imputed to vanity and self-love." Yet, justice, there can be little doubt, he will ultimately obtain, as the party mist which has hitherto enveloped our post-revolutionary history rises and lets in the clear light of truth. None, at least, can deny to his conduct in renewing the negotiation a moral courage of which there are but few instances in our history. Washington's ratification of Jay's treaty furnishes one; perhaps almost the only other is to be sought in the opposition of Dickinson to what he esteemed the premature declaration of independence—a reminiscence which can not but suggest a very curious and instructive parallel. Adams, in fact, now occupied,

in relation to the more ardent Federalists, very much the same position which Dickinson had occupied a quarter of a century before in relation to himself. On that occasion, in his youthful ardor, he had been ready to set down Dickinson as a "piddling genius" because he hesitated at a step quite in advance of any thing originally contemplated, and of which the ultimate consequences, though all agreed they must be very serious, could not be foreseen. And now that Adams hesitated in his turn at a like tremendous responsibility, there were not wanting among his late political adherents those ready to denounce him as a "piddling genius" not up to the emergency, and too much concerned about his own interests to merit the title of a patriot. Dickinson occupied in both cases the same ground. As he was then opposed to a war with England, so he was now opposed to a war with France. He had long since retired from public life, but his last published essays were on this topic.

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About the time of the departure of the envoys, the proceedings of the commission sitting under Jay's treaty encountered a serious interruption. The commission sitting at London, under the sixth article, of which John Trumbull was the umpire, had made considerable progress, and damages to the amount of near half a million of dollars had already been awarded and paid for illegal captures of American vessels, for which the ordinary course of law furnished no remedy. The commission sitting at Philadelphia under the seventh article, the appointment of the fifth commissioner or umpire of which had fallen to the British, was by no means so harmonious. Claims of all sorts had been filed, including many by expatriated Tories, for the value of their confiscated property, to the amount, in the whole, of twenty-four millions of dollars; and the ground taken by the

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majority of the commission was such as threatened a very heavy burden to the United States. There was a difference in the commission both as to the allowance of interest while the war continued, and as to the classes of persons entitled to claim under the treaty. The British majority of the commissioners were disposed to hold the United States responsible, in the first place, for all unpaid debts, and to throw upon them the burden of proving that, had due diligence been used, those debts might have been collected. The American commissioners maintained, on the other hand, that as the United States were only responsible for those debts the recovery of which had been prevented by legal impediments, it rested on each claimant to show that due diligence had been used, and that the recovery of his debt had been prevented by legislative obstacles, or by the debtor's becoming insolvent during the continuance of such obstacles. After much discussion, some of it very warm, and before any one claim had been definitely adjudicated, the American commissioners, with the approbation of their government, prevented any awards by withdrawing. When this became known in England, the British government withdrew their members from the board sitting there; and both commissions thus came to a full stop. But, notwithstanding this interruption, both governments expressed their anxiety to carry out the treaty in good faith; and Sitgreaves was soon after dispatched to England to co-operate with King in obtaining, if possible, some explanatory article on the subject of the British debts.

From a statement made by Wolcott preliminary to the meeting of Congress, it appeared that for the year ending the 30th of September, there had been a falling off in the customs, the main source of revenue, of near a million of dollars, occasioned in part by the interruptions to

trade, the whole produce being \$7,117,000. The inter-
 nal duties, including the Stamp Act, had produced \$773,-
 000—a considerable increase upon any former annual
 amount. The preliminaries for the collection of the
 direct tax had been mostly arranged, but the collection
 had not yet been begun. The total income of the year, in-
 cluding about four millions received on the eight per cent.
 loan, amounted to \$12,770,000; the expenditures had
 been \$10,356,000. This left a balance in the treasury (in-
 cluding that part of the five million loan outstanding) of
 near three millions and a half; but as the existing estab-
 lishments called for an expenditure exceeding the stand-
 ing revenue by five millions, new loans or taxes would
 be necessary to meet the expenses of the ensuing year.

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This was not a very agreeable state of affairs to lay
 before the sixth Congress, which came together, soon af-
 ter, for its first session. In the Senate several new mem-
 bers appeared—Dexter, of Massachusetts, known to us al-
 ready as a former member of the House, in place of Sedg-
 wick, and William H. Willes, of Delaware, in place of
 Vining, whose terms had expired. Dayton, late speaker
 of the House, and Baldwin, so long a member of that
 body, appeared also among the new senators. From
 Virginia, in place of Tazewell, who had resigned, came
 Wilson C. Nicholas, the confidential friend of Jefferson,
 but inferior in ability to either of his two brothers.
 Charles Pinckney, of South Carolina, appointed to fill a
 vacancy just at the close of the last Congress, was also a
 member of this. Near the end of the session, Gouver-
 neur Morris took his seat from New York, to fill a va-
 cancy occasioned by Watson's resignation.

Still more extensive changes had taken place in the
 House, where the Federalists were now, for the first time
 since 1793, in a decided majority. Of former members,

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the most distinguished were Otis, Sewall, Thacher, Var num, and Sedgwick, of Massachusetts—the latter, on the expiration of his senatorial term, having been again elected to the House ; Dana, Chauncey Goodrich, and Griswold, of Connecticut ; Livingston, of New York ; Gallatin, Hartley, Kittera, Smilie, and Peter Muhlenburg, of Pennsylvania ; Bayard, of Delaware ; Smith, of Maryland ; John Nicholas, and Parker, of Virginia, of whom the former had carried his election only by a few votes, while the latter had gone over to the Federalists ; Macon, of North Carolina ; Harper, Rutledge, Thomas Pinckney, and Sumter, of South Carolina. The most remarkable of the new members were Dr. Michael Leib, already known to us as a very fierce Democrat, from Pennsylvania ; Joseph H. Nicholson, of similar politics, from Maryland ; John Marshall, Henry Lee, and the eccentric and afterward celebrated John Randolph, from Virginia. William Henry Harrison, afterward president of the United States, appeared as a delegate from the Territory northwest of the Ohio, skirted then by a few feeble and scattered settlements, but counting while I now write, at the end of only fifty years, five states, and near five millions of inhabitants. Sedgwick was elected speaker over Macon by forty-four votes to thirty-eight.

Dec

The president's speech, after noticing the Northampton insurrection (Fries's), the revival of trade with St. Domingo, the departure of the envoys for France, and the suspension of the commissions under the British treaty, devoted itself principally to two topics ; first, a re-organization of the Federal judiciary, already more than once suggested by the judges, and repeatedly brought by Washington to the notice of Congress ; and, secondly, a steady perseverance in a system of national defense, commensurate with the resources, and corresponding

with the situation of the country. The president expressed his decided opinion that, in the present disturbed state of the world, remote as the United States were from the seat of war, and desirous as they might be, by doing justice to all, to avoid offense to any ; nothing short of the power and means of repelling aggressions would secure a rational prospect of escaping war, or national degradation, or both.

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Though the Federalists had a decided majority in the House, that majority was by no means homogeneous. "The following may be considered," so Wolcott wrote to Ames, "as a tolerably correct outline of the state of the public councils. The Federal party is composed of old members who were generally re-elected in the Northern, with new members from the Southern States. New York has sent an anti-Federal majority, Pennsylvania has done the same. Opposition principles are gaining ground in New Jersey and Maryland, and in the present Congress the votes of these states will be fluctuating and undecided. A number of distinguished men appear from the southward, who are not pledged by any act to support the system of the late Congress. These men will pay great respect to the opinions of Marshall. He is doubtless a man of virtue and distinguished talents, but he will think much of the State of Virginia, and is too much disposed to govern the world according to rules of logic. He will read and expound the Constitution as though it were a penal statute, and will sometimes be embarrassed with doubts of which his friends will not perceive the importance.

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"The Northern members can do nothing of themselves, and circumstances have imposed upon them the necessity of reserve. The president will be supported by many from personal considerations ; some believe he has acted

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wisely, others consider it impolitic and unjust to with draw their support, though they admit that he has committed a mistake. The president's mind is in a state which renders it difficult to determine what prudence and duty require from those about him. He considers Colonel Pickering, Mr. M^cHenry, and myself as his enemies; his resentments against General Hamilton are excessive; he declares his belief of the existence of a British faction in the United States. In some unguarded moment he wrote a letter to Tench Coxe, attributing the appointment of Mr. Pinckney, as minister to London, to British influence, and suggesting that, if he (Mr. Adams) were in an executive office, he should watch the progress of that influence. Coxe has perfidiously disclosed this letter, and copies are circulating among the suspicious and malignant. This state of things has greatly impaired the confidence which subsisted among men of a certain class in society. No one knows how soon his own character may be assailed. Spies and informers carry tales to the president with the hope of producing changes in the administration. Mr. Otis, your successor, is suspected of aspiring to the office of Secretary of State. Cunning half Jacobins assure the president that he can combine the virtuous and moderate men of both parties, and that all our difficulties are owing to an oligarchy which it is in his power to crush, and thus acquire the general support of the nation. I believe that I am not mistaken in any of the facts which I have stated. It is certain that confidence is impaired. But no man can be certain that, when many are interested in promoting dissension, he may not himself be the dupe of artifice, and possibly this is my own case."

"Considering the state of the House," says this same lively, candid, and sagacious letter, "it was necessary

and proper that the answer to the speech should be prepared by Marshall. He has had a hard task to perform, and you will see how it has been executed. The object was to meet all opinions, at least of the Federalists. It was, of course, necessary to appear to approve the mission, and yet to express the approbation in such terms as, when critically analyzed, should amount to no approbation at all. No one individual was really satisfied, but all were unwilling to encounter the danger and heat which a debate would produce, and the address passed with silent dissent. The president doubtless understood the intention, and in his response has expressed his sense of the dubious compliment in terms inimitably obscure."

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The standing committees had been appointed, and some commencement of business had been made, when the proceedings of Congress were interrupted, and the whole nation was shocked by the sudden death of General Washington. He was carried off, after a few days' sickness, by an inflammation of the windpipe, brought on by exposure to wet in a ride about his farm, and of which the fatal effect, it is to be feared, was hastened, if not, indeed, produced, by the excessive bleeding to which, according to the fashionable practice of that time, he was subjected by his attendant physicians.

Washington's sudden death almost entirely swept away, at least for the moment, those feelings of suspicion with which a portion of the Republican party, especially of the leaders, had begun to regard him. Now that he was dead, all zealously united to do him honor.

Rare man indeed he was among actors on the military and political stage, possessing in the highest degree the most imposing qualities of a great leader—deliberate and cautious wisdom in judging, promptitude and energy in acting, a steady, firm, indomitable spirit,

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such as men love to cling to and rely upon ; more than all, an unsullied integrity, and a sincere and disinterested devotion to his country's cause, such, indeed, as many public men, or their followers for them, pretend to, yet the credit of which very few get and still fewer deserve. History records many names that dazzle the imagination with a greater brilliancy, but few, indeed, that shine with a light so pure, steady, permanent, penetrating, and serene. Washington's character and reputation, as contrasted with those of many other famous men, seem to resemble in effect the Doric in architecture as compared with the Gothic and Oriental styles. Those styles often excite, especially in minds peculiarly liable to vivid impressions, the most enthusiastic pitch of admiration, appealing, as they do, not alone nor chiefly to the sentiment of the beautiful, but to the powerful emotions, also, of surprise and wonder, growing out of novelty, variety, complication, and vastness. But these are emotions, especially if we take into account the mass of men and succeeding generations, liable to great fluctuations, often subsiding into indifference, sometimes sinking into contempt ; while the sereener sentiments, always and everywhere inspired by majesty, order, proportion, grace, and fitness, are not less steady, universal, and enduring than the perceptions from which they spring.

The loss of this great man, especially at this critical moment, was a terrible blow to the Federal party, of which he had always been the main pillar and support. The confidence almost universally reposed in his virtue and his wisdom had been a tower of strength against which the furious waves of the opposition had dashed harmless ; and in the present unhappy divisions among the Federal leaders, many eyes had begun to turn again toward him, as called upon for further labors and sacri

fices. As he had consented again to gird on his sword to repel the foreign enemies of his country, many had begun to think that he ought also to permit himself to be raised a third time to the presidency, in order to still once more the contests of party, and to save the country from the internal dangers that threatened it.

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All such thoughts were now vain. Nothing remained but to testify, by due honors, the feeling of his worth. Immediately, on the first report of his death, both houses adjourned. The next day Marshall announced the confirmation of this afflicting intelligence, and after giving a brief but comprehensive sketch of Washington's public life and services, he moved that the House wait upon the president to condole with him over the national loss; that its members and officers go into mourning; and that the House proceed toward the appointment of a joint committee to consider of some suitable honors to the memory of the man "first in war, first in peace, and first in the hearts of his countrymen."

Dec. 19

The Senate addressed a letter of condolence to the president, and concurred in the appointment of the joint committee; upon whose report a funeral ceremony was resolved upon, an oration to be pronounced before the two houses by a member of Congress; the sympathies of Congress to be conveyed to the widow; the president to be requested to recommend to the people of the United States to wear badges of mourning for thirty days; and that a suitable monument be erected by the United States in the Capitol at the new Federal city, and designed to commemorate the great events of Washington's military and political life, beneath which, with the permission of his family, his remains should be deposited.

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The oration before Congress was pronounced by Henry Lee, who had enjoyed the intimate personal friend-

Dec 26

CHAPTER XIV. ship of Washington. Another resolution was shortly after adopted, recommending that the people generally assemble on the approaching anniversary of Washington's birth publicly to testify their grief for his death 1799. "by suitable eulogies, orations, and discourses, or by public prayers." That day was accordingly solemnly observed throughout a great part of the Union; Hamilton, Dec. 30. Ames, and many orators of less fame standing forth as spokesmen of the people's grief. Nowhere was that grief more deep than in New England, where Washington's lofty virtue and practical good sense had struck a more responsive chord than even in his native state. To New England, indeed, he had ever looked, and never in vain, for his steadiest support, whether in war or in peace, whether as general or as president.

Nor was it in America alone that Washington's virtues were acknowledged and his death lamented. On hearing the sad news, the great British fleet of sixty ships of the line, employed to guard the English Channel, then lying in Torbay under the command of Lord Bridport, lowered their flags to half mast. Bonaparte, by this time first consul of France, paid also a tribute to Washington's memory in an order of the day to the French army; after which a funeral oration was pronounced before the first consul and the civil and military authorities.

Yet, in the midst of this universal mourning, scoffers and malcontents were not wanting. Some of those newspapers which had slandered Washington while alive, Callender's among the number, complained, in the very spirit of Judas Iscariot, that the honors bestowed upon his memory were idolatrous—and too expensive. Why was not this spikenard sold and the proceeds given to the poor.

Scarcely was the business of Congress resumed, when the equanimity of the Southern members was not a little disturbed by a petition from certain free colored inhabitants of the city and county of Philadelphia, presented by Waln, the city representative, setting forth that the slave trade to the coast of Guinea, for the supply of foreign nations, was clandestinely carried on from various ports of the United States; that colored freemen were seized, fettered, and sold as slaves in various parts of the country; and that the Fugitive Law of 1793 was attended in its execution by many hard and distressing circumstances. The petitioners, knowing the limits to the authority of the general government, did not ask for the immediate emancipation of all those held in bondage; yet they begged Congress to exert every means in its power to undo the heavy burdens, and to prepare the way for the oppressed to go free. Attention had recently been drawn to slavery and the slave trade, not only by alleged violations of the act forbidding American vessels to assist in the supply of foreign slave-markets, but much more forcibly by a recent conspiracy, or alleged conspiracy, in Virginia, which had produced a great alarm, resulting in the execution of several slaves charged as having been concerned in it. A great clamor was excited by Waln's motion to refer this petition to a committee already raised on the subject of the slave-trade; a reference vehemently opposed, not only by Rutledge, Harper, Lee, Randolph, and other Southern members, on the ground that the petition intermeddled with matters over which Congress had no control, but also by Otis of Boston, and Brown of Rhode Island, whose vehemence was even greater, if possible, than that of the members from the South. Waln, Thacher, Smilie, Dana, and Gallatin argued, on the other hand, that, as parts of the petition were certainly

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May 10. brought in a bill which passed to be enacted, restricting, by more stringent provisions, the supply of slaves to foreign countries by ships of the United States.

The opposition had already commenced the campaign

by a resolution, offered by Nicholas, in the House, for the repeal of all the late laws authorizing an increase of the military and naval establishments. To this it was objected that it was necessary to keep up a good show of defense as a support to the negotiation lately recommenced, but of the success of which no accounts had yet been received; and the motion, after a three days' debate, was rejected fifty-nine to thirty-nine. Among the speakers in this debate was John Randolph, a very young man, scarcely of age, a singular mixture of the aristocrat and the Jacobin—an aristocrat by birth, education, and temperament; a Jacobin, at this time, out of enthusiasm for France, and during all his life out of a sort of Ishmaelitish opposition to the exercise of authority by any body but himself. In jealousy, envy, caprice, and passion, he ever exhibited the familiar characteristics of that unhappy neutral sex sufficiently common in Eastern countries, though rare among us, but to which he was said to belong.

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In his speech upon this occasion, with that insolence which never forsook him, Randolph spoke of the officers of the army and navy as "a handful of ragamuffins," who consumed the fruits of the people's labor under pretext of protecting them from a foreign yoke. Being at the theater a night or two after with some other members of Congress, two or three young officers entered the box where he sat, jostled against him, repeating the word "ragamuffin," and when, in order to avoid a quarrel, he rose to leave, they pulled him by the coat and otherwise insulted him. The next day Randolph addressed a letter to the president not less characteristic than his speech. On the ground that his application required no preface of apology, since he claimed to hold, in common with Adams, "the honorable station of servant of the same

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sovereign people," he proceeded, "without the circumlocution of compliment," to set forth his case as one in which the independence of the Legislature had been attacked, the majesty of the people insulted, and the president's authority contemned; demanding action on the president's part "commensurate with the evil, and calculated to deter others from any future attempt to introduce the Reign of Terror."

Randolph perhaps expected to place the president in a dilemma between sympathy for the officers and respect for the rights of a representative; but, if so, he found the tables very quietly turned upon him. A message from the president to the House inclosed Randolph's letter, as to which he observed that, as it related to the privileges of the House—a matter not proper to be inquired into except by the House itself—he had sent it to them without any further comments either on its matter or style; but as no gross improprieties on the part of persons holding commissions in the service of the United States ought to be passed over without due animadversion, he had directed an investigation into the matter complained of, for the purpose of obtaining a statement of facts such as might enable him to decide on the course which duty and justice might demand.

It was proposed to refer this message, with its inclosure, to a select committee—a step which Randolph vehemently opposed. Adhering to the doctrine maintained by his party in the case of Lyon—whom he seems also to have taken as a model of Republican plainness and simplicity in manners—he insisted that the House had no jurisdiction in the matter, and that to assume it on this occasion might prove a bad precedent. He wished, as in his letter, to shift off the whole responsibility of inquiry and punishment upon Adams, who, as commander

in-chief, had, so he maintained, abundant authority in the matter. But the House were almost unanimously of opinion that, in a question so serious as that of their privileges—and that certainly was one of the grounds on which Randolph's letter had placed the matter—the president had acted with great discretion in referring the whole subject to them. A special committee was accordingly appointed, by which a report was soon made severely censuring not the style only, but object also, of Randolph's letter to the president. Whatever might have been the writer's intentions, this letter was pronounced by the committee to be in itself little short of a breach of the privileges of the House, being an attempt to transfer to the president the jurisdiction over a matter of which the House itself was the peculiar and exclusive judge. As to the alleged insult witnesses had been examined. The officers implicated had denied any knowledge that Randolph was in the box; and the whole testimony as to what was said and done was so contradictory, that, in the committee's opinion, no case appeared requiring any action. In spite of the earnest efforts of Randolph's party friends, this report was adopted; and he was thus obliged not only to put up with the retort which his own insolence had provoked, but himself to submit to the censure of Congress, while no punishment of the officers could be obtained—for, of course, after this, the president took no further steps in the matter. This was a lesson by which a wiser man might have profited; but a peevish, sneering, and quarrelsome insolence was so ingrained a part of Randolph's sickly nature, that not even the severest lessons of experience could restrain it.

Though the proposal to return to the former peace establishment had been rejected, great anxiety was felt by

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penses, which had, indeed, been the great argument on
the part of the opposition. From a statement submitted
by the Secretary of the Treasury, it appeared that if the
additional twelve regiments were completed to the es-
tablishment—as yet only 3400 men had been enlisted,
though all the officers had been appointed—and if the
building of the seventy-fours were continued, a new loan
of five millions would be necessary to meet the expenses
of the year. Under these circumstances, though not will-
ing to go quite the length of the opposition, a bill was
introduced by the Committee of Defense, which presently
became a law, suspending farther enlistments for the ad-
ditional regiments, but empowering the president, in case
war broke out during the recess, to order their renewal
at his discretion. No additional appropriation was made
for the seventy-fours, thus reducing the loan required to
three millions and a half, which amount the president
was authorized to borrow.

- To pay the interest on this and the previous five mill-
ion loan, additional duties were imposed of two cents
and a half per pound on sugar-candy, and of half a cent
per pound on brown sugar, raising the entire duty on
the latter article to two cents and a half per pound. Two
and a half per cent. additional was also imposed on all
goods hitherto paying ten per cent. ad valorem, including
woolens, linens, and silks, which were thus made to pay
the same twelve and a half per cent. as manufactures of
cotton. The duties on wines were also increased so as
to range from twenty-three cents to fifty-eight cents per
gallon, Madeira still standing at the head of the list.

The numerous insolvencies produced by the rage of
land speculation and by the uncertainties of commerce,
aggravated as they had been by the conduct of the del-

ligerents, had made evident the necessity of laws for the discharge of insolvent debtors. The impolicy as well as cruelty of imprisonment for debts occasioned by the fluctuations of trade and the uncertainties of speculation had begun to be felt; and several of the states had already tried their hands at the enactment of insolvent laws. More than once, at preceding sessions of Congress, the project had been brought forward of a general bankrupt law for the Union. Such a law was now passed, modeled after the English bankrupt law, and, like that, extending only to merchants and traders. But another act gave to all persons imprisoned on executions for debt issued out of the Federal courts the right to discharge themselves from imprisonment on taking an oath of poverty—their future property, should they acquire any, still however to be liable for their debts; and this oath might also be taken with the same effect, even though no execution had issued, at any time after thirty days from the rendition of judgment.

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April 4

The tract of territory in the northeastern corner of the present State of Ohio, reserved by Connecticut out of her cession to the United States, and thence known as the "Connecticut Reserve," had, as already has been mentioned, been sold by Connecticut, jurisdiction and all, to a company of speculators. They had surveyed it into townships, and, under their auspices, a thousand settlers or more were already established on it. To these speculators the jurisdiction was of no pecuniary value, and was even likely to prove a serious embarrassment; while it was much for their interest to obtain from the United States a direct confirmation of the Connecticut title, hitherto only inferentially acknowledged, and the more so as Connecticut, avoiding all risks, had given them only a quit-claim deed. On the other hand, it was

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an object for the United States to extinguish the claim of jurisdiction ; and in this mutuality of interests originated an act of Congress authorizing the issue of letters patent conveying the title to the lands to the Governor of Connecticut, for the benefit of those claiming under her ; similar letters patent to be executed by Connecticut, relinquishing all claim to jurisdiction. This act, in obtaining from Connecticut a relinquishment of all her claims to jurisdiction west of her present boundary, had also the effect to extinguish a controversy long pending between her and New York as to a strip of land along the southwestern boundary of the latter state, known as the "Connecticut Gore," and which Connecticut had claimed as within her charter, on the same principles on which she had formerly claimed the northern portion of the State of Pennsylvania, as well as the Connecticut Reserve itself, and the ceded district west of it.

The assistance toward the extinction of the public debt expected from the sale of the public lands, had hitherto entirely failed to be realized. There was, in fact, a powerful and influential body of men interested in keeping those lands out of the market, including the speculators in military land warrants, and those who had purchased up such immense tracts in New York and Pennsylvania, as well as in the Territory northwest of the Ohio, on which tracts alone had any settlements as yet been commenced. The act of 1796 had effectually prevented purchases direct from the United States by actual settlers of small means, who were thus obliged to obtain their lands at second-hand from the speculators. It provided for the sale of public lands only at the treasury, at Cincinnati, and at Pittsburg ; at the two latter places at vendue only, and in sections, as the smallest quantity ; and during the four years that this act had been in force,

the total receipts under it, speculative purchases included, had scarcely amounted to \$100,000. Principally through the urgency of Harrison, the delegate from the Territory northwest of the Ohio, and in hopes, also, of improving the revenue, this method of sale was considerably modified, and the substance of the existing land system introduced. The new act made provision for the opening of four land offices within the territory itself at Cincinnati, Marietta, Chillicothe, and Steubenville, each with its register and receiver. The lands, subdivided into half sections of 320 acres each, after being offered at public auction, if not sold, might be entered at any time at the minimum price of two dollars per acre, besides the expense of survey, one quarter to be paid in forty days after the entry, and the remainder in three installments spread over four years. A joint resolution had already been adopted, authorizing the president to appoint an agent to collect information as to the copper mines on the south side of Lake Superior. But these mines, though their existence had been known for more than a century past, were destined to remain unwrought for near half a century longer.

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The rising Connecticut settlement on the Reserve being merged into the Territory northwest of the Ohio, an act was passed dividing that territory into two jurisdictions, the region west of a line drawn from the mouth of the Kentucky River to Fort Recovery, and thence due north to the Canada line, being erected into a separate territory, called INDIANA, after one of the old anti-Revolutionary land companies, which had claims in that region.

May 1.

The new Territory of Indiana, vast as its extent was, contained only a few isolated spots to which the Indian title had been extinguished, and on which alone any set-

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lements existed. A Territorial Assembly was to be allowed whenever a majority of the freeholders should desire it. St. Vincent's, otherwise known as Vincennes, was fixed upon as the capital. The appointment of governor was given to Harrison, who had both family and personal claims to it. His father had been a signer of the Declaration of Independence, and afterward governor of Virginia; while he had been himself first a lieutenant in the army and an aid-de-camp to Wayne during his campaign against the Indians, then secretary of the Northwestern Territory, and finally delegate of that territory to Congress.

May 10.

The immediate privilege of a Territorial Assembly was also extended to the Territory of Mississippi, where great dissatisfaction had arisen with the administration of Governor Sargent. By the same act, the commissioners for adjusting with Georgia her claims to that territory, were vested with full powers to arrange the whole matter; with the restriction, however, that no money was to be paid to Georgia except out of the proceeds of the lands.

Jan. 10.

Another act, designed to meet such cases as Blount's, had already passed, subjecting to fine and imprisonment any attempt, on behalf of any foreign power, to tamper with any of the Indian tribes, or the soliciting them to break the laws, infract the treaties, or disturb the peace of the United States.

The repeal of the Sedition Law, at least of that part of it relating to seditious libels, was early proposed by Macon in a committee of the whole, to which several petitions on that subject had been referred. Several of the Southern Federalists, and Marshall among the number, had admitted the impolicy of the law, and, as a means of securing their election, had pledged themselves to vote for its repeal. Macon relied on their assistance,

but he was effectually counterworked by Bayard, who offered a resolution for the repeal of the section relating to libels, "the offenses therein provided for to remain punishable at common law," but the truth to be a defense. A division being called for, that part of the resolution going for repeal was carried fifty to forty-eight. The other part was also carried fifty-one to forty-seven, Gray of Virginia, and Nott of South Carolina, who had voted for the first clause, voting also for this. Tending, in the shape in which it had been adopted, to establish the doctrine of common law offenses against the United States—a doctrine far more alarming than the Sedition Law, which, by its own limitation, would expire in a year,—the bulk of the Federalists were now assisted in voting down the resolution by the whole opposition. The vote stood eighty-seven to eleven, those in the minority being mostly Southern Federalists, who thus redeemed their pledge of voting for repeal.

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The matter of the surrender of Thomas Nash, or Jonathan Robbins, as he had chosen to call himself, was brought before the House by a motion of Livingston's to call upon the president for the papers in the case. These papers were accordingly sent; whereupon Livingston offered resolutions charging the president with a dangerous interference in that affair, with the rights and duties of the judiciary. These resolutions were vehemently supported by Livingston, Nicholas, and Gallatin, to whom Bayard, Harper, Otis, and Dana replied. The debate was closed by a most conclusive argument by Marshall, which settled the principle, not for this case only, but for the future practice of the government. The Committee of the Whole, to whom the subject had been referred, was discharged from its further consideration by the decisive vote of sixty-two to thirty-five.

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March 10

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The only proceedings of the Senate at this session which excited much public attention were those connected with an alleged breach of their privileges by Duane of the Aurora. A bill had been introduced by Ross, prescribing the mode of deciding disputed elections of president and vice-president, of which the principal feature was the appointment by ballot of a joint committee of both houses, with power to decide absolutely on the validity of any objections to any of the electoral votes.

Feb. 19. In reference to this bill Duane had stated in the Aurora, and that in very abusive terms, that it was got up by a secret caucus of Federal senators, who controlled all the proceedings of that body, with the design to deprive Pennsylvania of her vote at the ensuing presidential election; and how the bill might have had that operation will

March 20. presently appear. The Senate, upon the report of a committee of privileges, to whom this publication had been referred, resolved that it contained "assertions and pretended information respecting the Senate and their proceedings" "false, defamatory, scandalous, and malicious, tending to defame the Senate, and to bring them into contempt and disrepute, and to excite against them the hatred of the good people of the United States, and that the said publication was a high breach of the privileges

March 24. of the Senate." Having appeared at the bar in obedience to a summons, Duane asked permission to be assisted by counsel, which was granted with the limitation that they should be heard only as to such questions of fact as might arise, or in excuse or extenuation of his

March 26. offense. But instead of appearing at the time appointed,

Duane sent copies of a correspondence between himself and his intended counsel, Dallas and Thomas Cooper, the latter of whom we shall soon find defending a libel case of his own. In somewhat insolent terms toward the Senate, these two lawyers had declined to act, since they were not to be allowed to dispute the constitutionality of the proceeding; to which Duane himself added, that, being deprived, under the restrictions which the Senate had seen fit to adopt, of all professional assistance, he thought himself "bound by the most sacred duties to decline any further voluntary attendance upon that body, and to leave them to pursue such measures in this case as in their *wisdom* they may deem meet"—the word *wisdom* being, by way of sneer, underscored. The Senate retorted by voting Duane guilty of a contempt in refusing to appear, and a warrant, signed by his friend the vice-president, was issued, directing the sergeant-at-arms to arrest him, and to hold him in custody till further orders. He evaded an arrest, and meanwhile two or three petitions were got up by his friends in Philadelphia, praying the Senate to reconsider their recent votes; but instead of doing so, they adopted a resolution on the last day of the session requesting the president to instruct the proper law officers to commence a prosecution against Duane for a libel on the Senate.

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May 14.

The bill out of which these proceedings grew was greatly modified in the House by depriving the proposed joint committee of the right of final decision, and otherwise; and, in the end, it was lost by disagreement between the two houses.

The dissatisfaction which the president had given to a portion of the Federal party, first by the proposal of a new embassy to France, and next by persisting in sending the envoys, had continued to grow and increase dur-

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ing the session. Though there was now for the first time since the divisions of party became marked, a decided Federal majority in both houses, yet, as Jefferson exultingly wrote, they had not been able to carry a single strong measure in the Lower House. Not only was there a faltering in Congress, but out of doors a visible abatement also appeared of the zeal and ardor lately evinced in support of the administration. All this was ascribed by the more ardent Federalists to the conduct of Adams, who was said to have thrown cold water on the public feeling by the renewal of negotiations with France, and in thus playing into the hands of the opposition, to have seriously damaged, if not ruined, the Federal party. Nothing could be more unreasonable or unjust than these complaints. Those who had seen in a war with France the prospect of the complete prostration of Jefferson and his party, were disposed, in their disappointment, quite to lay out of account that ebb of zeal which always takes place after every sudden excitement, an ebb which the appointment of the new mission to France tended rather, perhaps, to delay and to lessen than to hasten or augment. The moderation of the new Southern Federal members had not been infused into them by Adams. It did but indicate the highest pitch to which the feeling of resistance to French aggressions had risen in the South—a disposition to repel insults, but still to avoid war by all tolerable means; and undoubtedly this was the disposition, also, of the great body of the Federal party throughout the Union, however a few might have thought and felt otherwise.

But, whatever opinion might be formed of the policy of Adams, his course of proceeding had made one thing evident. He could not be depended upon as the instrument of a party. As president, he was determined to exercise

his own judgment, and of course such a president could not be satisfactory to those who, as heads and leaders of the Federal party, claimed to dictate, or at least substantially to control, an administration raised to power through their influence. With such men, conscious of their own integrity and confident in their own wisdom, the conjecture was natural enough that the different views of policy taken by Adams must have originated in certain by-ends and selfish objects of his own; in jealousy of Hamilton and a disposition to secure his own re-election, no matter at what sacrifice of principle or at what risk to the party which had originally raised him to office.

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Already a scheme was on foot, in which Pickering, Wolcott, and M'Henry took a leading part, to contrive some means for getting rid of Adams at the close of his present term of office, and for substituting in his place a more reliable party man. Such, however, was the weight of Adams's personal character, and the respect and confidence with which he was regarded by the Federalists generally, and especially in New England, that to have attacked him openly would have risked the triumph of the opposition even in that stronghold of Federal influence. On the other hand, Adams, though well aware of the intrigue going on against him, and not a little embittered against its authors, did not dare, by any open breach with them, to risk the loss to the Federalists of those exceedingly doubtful Middle States, which had all along been the great battle-field of the two parties, and upon whose votes the final result of the presidential election must depend. Indeed, by a very current calculation, that result was made to rest upon the vote of New York alone, and even upon the choice of members of Assembly to be made by the city of New York at

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the spring election. Supposing the votes of Maryland and North Carolina—in which latter state the Federal party had greatly increased of late, and in both of which the electors were chosen by districts to be equally divided, New England and the states south of Pennsylvania, according to this calculation, would balance each other. The result would depend then upon New York New Jersey, and Pennsylvania. The old law of Pennsylvania for a choice of electors by general ticket had expired, and the Federalists who controlled the state Senate refused to revive it. Should a choice by districts be agreed upon, each party might safely calculate on about half the electors. It was whispered, indeed, that Governor M'Kean meant to order an election under the expired law; or should the Republicans, at the approaching election for members of Assembly, obtain a sufficient majority, to call the Legislature together for a choice by joint ballot. But the state Senate might still refuse to concur in this proceeding; and it was to counteract any irregular projects of this sort that Ross's bill for canvassing the electoral votes—the occasion of the proceedings against Duane—had been introduced into the United States' Senate. Supposing Pennsylvania not to vote or to be pretty equally divided, the electors of New Jersey, a state exceedingly doubtful, would not be numerous enough to decide the question either way against the state of New York, with which the decision would thus ultimately rest. In that state the choice of electors was to be by the Assembly in joint ballot; and such was the known strength of parties in the rest of the counties, that the majority in the Assembly was sure to be decided by the result in the city of New York, where twelve members were to be chosen on a single ticket. While so much depended on the state, and even upon the

city of New York, the very focus of Hamilton's influence, policy would not allow, by the rupture of the cabinet, the betrayal to the public of any internal dissensions.

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The same motives which operated with Adams to prevent the dismissal of his now hostile secretaries, had operated also with them to prevent their resignation. The success of their plans, as well as of Adams's, required a Federal majority in the electoral colleges; and the greatest caution was necessary lest any blow aimed at Adams personally might result in the defeat of the Federal party. The man upon whom the ultra Federalists had fixed their eyes as on the whole their most reliable and available candidate, was Charles C. Pinckney, the late envoy to France, whose conduct in that mission, at once spirited and discreet, and whose patriotic behavior respecting military rank, had brought him conspicuously before the public, while his Southern citizenship might, perhaps, secure votes not attainable by any Northern man.

The method, as the Constitution then stood, of voting for two candidates, without distinction as to the office for which they were intended, the one receiving the highest number of votes to be president, furnished peculiar facilities for quietly displacing Adams without seeming to make any open attack upon him; and even without the necessity that more than a limited number of influential politicians should be in the secret. The names of Adams and Pinckney being brought forward in a private caucus of the Federal members of Congress, held for the purpose of agreeing upon candidates to be supported by the party, it was recommended, pretty unanimously, that both should be voted for equally; but the opponents of Adams secretly hoped that means might be found to secure for Pinckney the larger vote.

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A similar caucus of the opposition members selected as their candidates Thomas Jefferson and Aaron Burr, with the distinct understanding, however, that Jefferson was the choice of the party for president. Both these caucuses were held with profound secrecy, this sort of dictation being not yet recognized as a part of the institutions of the country. Their proceedings, instead of being formally reported and published in the newspapers, according to our present usage, were only diffused among the local leaders by personal communication and private correspondence.

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News having been received, toward the end of the session, of the arrival of the new envoys in Europe, and of the prospect of a favorable result, an act was passed for the discharge, with three months' extra pay, of all the officers of the additional regiments, and of the men so far as they had been enlisted. But, though warlike preparations by land were thus abandoned, the commercial non-intercourse, and the arming of merchant vessels, were still adhered to, and acts were passed for their continuance. The navy afloat, increased to nine frigates and twenty-five smaller vessels, still kept the seas in two principal squadrons, one on the St. Domingo station, the other, under Truxtun, off Guadaloupe; but, from the necessities of the service, the vessels were generally scattered. Truxtun, in the *Constellation*, while cruising alone

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off Guadaloupe, discovered a large vessel, to which he gave chase. It was the French frigate *La Vengeance*, of fifty guns, with from four to five hundred men, bound for France, with a large quantity of specie and of other valuable goods on board, which made her lay very deep in the water. The Frenchman attempted to escape, but after a two days' chase, Truxtun succeeded, about eight o'clock in the evening, in bringing on an action. The

two ships, running side by side, kept up the contest till near one o'clock the next morning, by which time the Frenchman's fire being completely silenced, he hauled off and drew out of the combat. While attempting again to get alongside, Truxtun discovered that the braces of his mainmast were all shot away, and before they could be supplied the mast went by the board, thus giving the Frenchman a chance of escape, which he hastened to improve. The Constellation, having lost thirty-nine men killed and wounded, bore up for Jamaica for repairs. The French frigate, almost a wreck, and with upward of a hundred and fifty men killed or disabled, succeeded in getting into Curaçoa, where she was condemned as unfit for further service. Truxtun's gallantry in this action, the news of which arrived before the adjournment of Congress, was acknowledged by the vote of a gold medal.

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PENNSYLVANIA, MASSACHUSETTS, NEW YORK. STATE TRIALS. CHANGES IN THE CABINET. STRUGGLE BETWEEN ADAMS AND HIS FEDERAL OPPONENTS. CONVENTION WITH FRANCE. PRESIDENTIAL ELECTORS. REMOVAL OF THE SEAT OF GOVERNMENT TO WASHINGTON. SECOND SESSION OF THE SIXTH CONGRESS. JUDICIARY ACT. PROJECT FOR MAKING BURR PRESIDENT. DOWNFALL OF THE FEDERAL PARTY.

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NOTWITHSTANDING the constitutional ardor with which M'Kean espoused the politics of the opposition, the Federalists had hoped, knowing how conservative he was in most of his opinions, that, after having secured his election as governor of Pennsylvania, he would abate somewhat of that party vehemence by which he had been distinguished as a candidate. But the current which had set so fiercely in the new governor's mind against all who had opposed his election, could not be so suddenly stopped. In reply to the addresses of congratulation which his partisans poured in upon him, he stigmatized those who had voted against him as either enemies to the principles of the American Revolution, emissaries of foreign governments, or office-holders or expectants of office under the Federal government; and no sooner was he inducted into office, than, to punish his enemies and reward his friends, he made a vigorous use of the extensive powers of removal and appointment vested in him as governor—a system which he was the first to introduce into American politics, at least upon an extensive and sweeping scale. Governor Mifflin, who

died shortly after the accession of M'Kean, in filling up the civil offices under the new state Constitution, at a time when party lines were not yet distinctly drawn, and while he himself was a Federalist, had naturally enough made his selections, to a very great extent, from among his fellow-soldiers in the Revolutionary army; and of these a very large proportion had taken the Federal side, and had voted and electioneered in favor of Ross. In the eyes of M'Kean, this was a crime more than sufficient to counterbalance any merits or services, however great; and almost all those so guilty were speedily removed from office, and their places filled by M'Kean's own partisans. Some of his appointments occasioned great surprise, especially that of Brackenridge, who had been so much implicated in the Whisky Insurrection, to a seat on the bench of the Supreme Court. But, while thus sacrificing to party with the one hand, he paid a tribute to legal learning on the other, in raising to the place of Chief Justice his late associate Shippen. During the Revolution Shippen had remained quiescent, being personally inclined to the British side. Upon the reorganization of the courts under the new Constitution, he had been appointed a judge by Mifflin. Even Brackenridge, whatever his eccentricities as a man or a politician, proved, in his judicial character, no disgrace to the bench.

The Assembly met at Lancaster, whither, by an act of the preceding session, the seat of government had been removed. The Senate, in which the Federalists had a majority, after taking a month to consider M'Kean's cautious inaugural address, briefly expressed in their answer their satisfaction at the sentiments announced in it. But they took the same opportunity to read the governor a lecture on the denunciatory style of his answers to ad-

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In the House, where the governor's friends had a small majority, party spirit ran very high, giving rise to some singular scenes. The Republican members had introduced a new election act, by one section of which they proposed to deprive of the right of voting all citizens of Pennsylvania enlisting into the military service of the United States. Pending the debate on this bill, the pacific Logan, who had volunteered a voyage across the Atlantic to preserve peace between France and America, while leaving the House just after an adjournment, got into a bout of fisticuffs with a Federal member, whose speech against this disfranchising provision the doctor had chosen to pronounce "d—n nonsense"—a criticism answered by a blow, which Logan's Quakerism did not prevent him from returning.

In Massachusetts the opposition had brought forward Gerry as their candidate for governor. Sumner had died in office, and Strong was elected by the Federalists to succeed him. The election was very warmly contested.
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Already, before the adjournment of Congress, the important election had taken place in New York, on which so much depended. Hamilton on the one side, and Burr on the other, had made every possible exertion. The opposition Assembly ticket for the city of New York was very skilfully drawn up. At the head of it was placed ex-Governor Clinton; it bore also the names of Brockholst Livingston as the representative of the Livingston interest, and of General Gates, who, having sold his plantation and emancipated his slaves in Virginia, had resided for the last ten years in New York and the vicinity, and who was known as the warm political friend of Burr. It was only, however, by great efforts on Burr's part that either Clinton or Livingston had consented to this use of their names. Clinton considered his own pretensions to the presidency to have been unreasonably overlooked in favor of Jefferson, whom he regarded as a trickster and trimmer; nor was Livingston particularly anxious to promote the success of the presidential ticket agreed on. Burr went beyond every body in all the arts of electioneering intrigue. The year before, upon the question of sustaining the Federal government against the insolence of the French Directory, the Federalists had carried the city by five hundred majority; now, upon the question of the next presidency, the opposition had a majority nearly as great.

There was, however, one resource left. The political year of New York commenced with July. There was time, therefore, to call the present Federal Assembly together, and to pass an act similar to one proposed at the late session, but rejected by the combined votes of the more ardent of both parties, for an election by districts. Should such a bill pass, the Federalists might secure at least five out of the twelve votes to which New York

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was entitled. A letter was accordingly written to Jay "by one of the most distinguished and influential Federalists in the United States"—such was Jay's endorsement on the back of the letter, which probably came from Hamilton—suggesting an extra session of the Legislature, to consider the expediency of such an act. Such a procedure, the letter admitted, might be esteemed to transcend the ordinary forms of delicacy and decorum; but the community's substantial interests ought not to be sacrificed to mere scruples of delicacy, while all means not contrary to good morals or to law ought to be employed to save the government from falling into the hands of a dangerous party, which itself never scrupled to take every advantage of its opponents that the most strained construction of the law could be made to justify.

This reasoning might seem conclusive, as, indeed, it often has done, to warm party politicians, who identify, in their own minds, beyond the power of separation, the success of their own party and the salvation of the state. But to Jay, who, after a long experience, had finally made up his mind to retire from public life, it did not seem so certain that the welfare of the state would be permanently promoted by a precarious party triumph secured by means open to cavil, and which might serve as provocation to procedures of a character still more questionable. He therefore endorsed the letter as "proposing a measure for party purposes, which he did not think it became him to adopt;" and, with a magnanimity very contrary to what he himself had experienced at the hands of those who called themselves Republicans, while they stigmatized him as a monarchist, he declined to take any step toward defeating the popular will, as so recently expressed.

The spring circuit of the Federal courts, which commenced about the time of the Massachusetts election, furnished new matter of clamor to the opposition. Holt, who had removed from New York to become publisher of the Bee, an opposition newspaper recently established at New London, in Connecticut, and who had been indicted, at a former term, under the Sedition Law, was now found guilty of a libel tending to defame the president and to discourage enlistments into the army, and was sentenced to three months' imprisonment and a fine of \$200.

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A trial which excited greater attention was that of Thomas Cooper, already mentioned as one of Duane's intended counsel in the question of breach of the privileges of the Senate. An Englishman by birth, Cooper had been educated a barrister; but, not restricting himself to the law, in which he was well read, he had also turned his attention to metaphysics, politics, and the sciences, especially the then new science of chemistry, in experimenting in which he had spent a considerable part of his inherited fortune. Having embraced the new doctrine of the rights of man with great zeal, he had rendered himself obnoxious in England, and, in consequence, had emigrated to America at the same time with his friend Priestley. Not meeting with much success in the practice of the law, for which, notwithstanding his talents and learning, his irritable and supercilious temperament and speculative turn of mind but ill qualified him, he had applied, through Priestley, to Adams for an office. Failing in that application, he had established a newspaper in one of the back counties of Pennsylvania, and had advocated in it, with great zeal, the election of M'Kean. The whole current of Cooper's sentiments at that time made him sympathize with the opposition,

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though probably his own private disappointment somewhat sharpened his resentment against Adams in particular, whom he had charged, in the article for which he was indicted, with having saddled upon the nation, in time of peace, by the unnecessary and unbecoming violence of his official communications, such as might justly have provoked a declaration of war, the expense of a permanent navy, and threatened it with that of a permanent army, to be supported by loans at eight per cent. He had also charged the president, in the same article, with having interfered to influence a court of justice "in the melancholy case of Jonathan Robbins, a native citizen impressed by the British, and delivered up, at the president's request, to a mock trial by a British court martial"—"an interference without precedent, against law, and against mercy;" "a stretch of power which the monarch of Great Britain would have shrunk from."

The indictment found against Cooper for this article was very likely intended to punish him for his late aid to Duane in insulting the Senate. Cooper set up the truth in defense, and summoned a great number of witnesses, chiefly members of Congress, none of whom, however, were examined. What he principally relied upon was a number of extracts from the president's answers, collected in a printed volume, to the various addresses which he had received. The court told him that being unauthenticated, they could not be received as evidence; but he claimed to put in the printed volume on the ground, that having applied to the president for authenticated copies of these answers, a note had been received from the president's secretary declining to afford him any information on the subject. The jury found him guilty, and Chase, who presided at the trial, and who

treated Cooper throughout with much delicacy, sentenced him to six months' imprisonment and a fine of \$400.

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Before this same court came on the second trial of Fries for high treason. At the former trial the council for Fries had argued at great length to the jury that the offense was not treason, but riot; and they had cited a great number of English cases to support that distinction. Considering those cases as irrelevant, the definition of treason depending not on English cases, but on the express terms of the Constitution of the United States, Chase reduced his view of the law to writing, and handed it to the prisoner's counsel, as that by which the course of the trial must be governed. Having no hope of the acquittal of Fries, and wishing to lay a foundation for an appeal to executive clemency, the prisoner's counsel put on an air of great indignation at this restriction on their right to argue the law to the jury, and though Chase immediately withdrew the obnoxious paper, they refused to appear any further in the case, and secretly advised their client to procure no other counsel. Fries was again found guilty, but was presently pardoned by the president, as well as two others convicted of the same offense—an act of clemency very much clamored at by some of the ultra Federalists as having been dictated by a mean desire of popularity, in a case where a stern example was needed. But surely, at this day, none will be inclined to complain at Adams's unwillingness to be the first president to order an execution for treason—an act of authority which, thank God! none of his successors have yet found occasion to exercise.

Having finished the Pennsylvania circuit, Chase, who was a great partisan of Adams's, and who was accustomed to mingle a good deal of politics in his charges to grand juries, proceeded to Richmond. There he pro-

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cured the indictment of Callender for certain passages of a recent publication, called the "Prospect before us," filled with abuse of Washington as well as of Adams. It was afterward proved by autograph letters, produced by Callender himself, that Jefferson, in spite of his disclaimers to Madison and others, not only contributed money toward the publication of this miserable electioneering pamphlet, but actually saw and approved a part of the proof-sheets. Callender was defended by three young lawyers, one of whom was the afterward distinguished William Wirt. Not having any defense on the facts, they wished to argue to the jury the constitutionality of the Sedition Law; but this Chase would not allow. He checked them with no very great ceremony; and they, seeing no other resource, followed the recent example of Fries's counsel, by throwing down their briefs and walking out of court. Callender was found guilty, and sentenced to nine months' imprisonment, a fine of \$200, and to give securities for his good behavior for the term of two years. The details of these trials are given with the more particularity, as Chase's conduct in those of Fries and Callender was made the principal ground, several years after, of an impeachment against him. Callender's was one of the last trials under the Sedition Act, of which the whole number did not exceed five or six. Perhaps there were as many cases more in which prosecutions were commenced, but not brought to trial.

While the opposition smarted under these applications of the law, and used them, too, with great effect for electioneering purposes, they found great comfort in the judgment which had overtaken Cobbett in the already-mentioned libel suit brought against him by Dr. Rush. This suit had been brought to trial on the very day of Wash-

ington's death; singular coincidence, as Cobbett remarked, that while the father of his country was perishing under the lancet, he, Cobbett, should be mulcted in a verdict of \$5000 for having exposed and ridiculed the dangerous practice of excessive bleeding. Shippen, who presided at the trial, certainly pushed the law, in his charge to the jury, to the utmost extreme; and Cobbett insisted that it was for this charge that Shippen was rewarded with the post of chief justice. In anticipation, it would seem, of what was to happen, Cobbett had stopped his paper, which, notwithstanding its circulation, having but few advertisements, had never proved profitable, and had removed to New York. His property at Philadelphia was seized and sold on execution, and an attempt was made to imprison him at New York. But he easily found bail, and Rush's judgment against him was afterward paid by a subscription among the British residents in America. Another suit was also pending upon the recognizances for his good behavior already mentioned, which M'Kean, by an exceedingly doubtful stretch of his legal authority, had required him to give. Upon this suit, also, judgment of forfeiture was presently obtained, and the sureties were obliged to pay, but were subsequently indemnified by Cobbett. Meanwhile, this indefatigable pamphleteer was not idle. He issued at New York a series of pamphlets called the "Rush Light," in which he took ample vengeance upon all parties concerned in his prosecution. Before the end of the year he returned to England, whence he hurled another quiver full of arrows at his American enemies, in ten octavo volumes, which had a large circulation on both sides of the Atlantic, containing a collection of his American pamphlets, with the spiciest of his Porcupine editorials. With that untiring energy for which he was

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remarkable, availing himself of his American experience, he soon commenced the first complete report of British Parliamentary debates ever published, at the same time conducting a political journal of wide circulation. But under that experience which a change of position afforded, he changed somewhat rapidly from a most vehement Tory to a most vehement Radical; for to be moderate in anything was not in his nature. His departure from the country was hardly less a relief to the Federalists than to the opposition. He had attacked Adams and the peace policy with great violence; and even the most ultra of the war party, much as they enjoyed his sharp hits, could not but feel that his pen did them more hurt than good. The opposition charged that Cobbett was hired by the British government. It is true that Liston, the English ambassador, a sagacious Scotchman, far better adapted to the position than his predecessor, took care to flatter Cobbett's vanity by showing him some attentions. But he was of a spirit far too proud and of a temper too stubborn to be bought with money, or to enlist as a mere mercenary into the service of any government or any party.

The result of the New York election removed a great part of the reasons which had thus far induced the president to temporize with his political enemies in the cabinet. That result, indeed, left him, as the only chance of his re-election, the securing of Southern votes—an object not likely to be accomplished by retaining as his political advisers a majority of ultra Federalists. Even apart from any views of that sort, now that the restraints of policy were removed, he had abundant reasons for desiring a change. It had been his custom, in which he had followed and somewhat exaggerated the example of Washington, to retire, shortly after the adjournment of

Congress, to his own private residence at Braintree, leaving the routine of business to be conducted by the cabinet ministers, who, however, in more important cases, consulted him by letter. He could hardly wish to confide so confidential a trust to a cabinet of which the majority were his political, if not his personal enemies. He began with M'Henry, who, in the letter of Wolcott's already quoted, giving an account of the opening of the session, is described as a man of honor and entirely trustworthy, also a man of sense, who delivered correct opinions when required; but at the head of a difficult and unpopular department, without being skilled in the details of executive business, which he exposed to delays by his diffidence in himself, and in which he sometimes committed mistakes, which his enemies employed to impair his influence. According to a letter of M'Henry's, written very shortly afterward, Adams spoke first of some matter of business. That disposed of, under the vexation which the recent news of the loss of New York might naturally inspire, he entered into a general criticism of M'Henry's conduct; charged him with personal hostility; "became indecorous, and at times outrageous;" and finally told him that he must resign, which he did the next morning. M'Henry succumbed like a willow before the blast—a blast, indeed, which he recollected for the rest of his life. Pickering was made of sterner stuff. When called upon to resign, he refused to do so, and Adams then dismissed him. Some eight years after (1808), the ex-president's anger being revived anew by Pickering's collisions at that time with John Quincy Adams, he drew, in a private letter, a sketch of that gentleman's character, not, perhaps, without likeness, but which certainly would have suited quite as well, if not better, either Adams, father or son. "He

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is, for anything I know, a good son, husband, father, grandfather, brother, uncle, and cousin. But he is a man in a mask, sometimes of silk, sometimes of iron, and sometimes of brass, and he can change them very suddenly, and with some dexterity." "He is extremely susceptible of violent and inveterate prejudices, and yet, such are the contradictions to be found in human characters, he is capable of very sudden and violent transitions from one extreme to an opposite. Under the simple appearance of a bald head and straight hair, and under professions of profound Republicanism, he conceals an ardent ambition, envious of every superior, and impatient of obscurity. He makes me think of a coal-pit covered over with red earth, glowing within, but unable to conceal the internal heat for the interstices which let out the smoke, and now and then a flash of flame."

This indeed was not so much the character of an individual as of that whole class of athletic, energetic, passionate men, born for action, and hardly comfortable except in the midst of a tumult, to which John Adams, M'Kean, Chase, Pickering, and John Q. Adams alike belonged. But surely Pickering's use of the mask, whether of silk, iron, or brass, and his facility of sudden and violent transitions, was far less than that of either of the others. Indeed, it was the want of sufficient flexibility which was the greatest defect in Pickering's political character. John Adams and his son, as well as Chase and M'Kean, had also the advantage of profound and varied learning, while Pickering had little to rely upon beyond his naturally vigorous intellect, and the multiplied experiences of a very active life. Yet the pieces which came from his pen during the controversy with France rank high in that collection of state papers which, with the series of political essays already referred

to, constitute the only valuable and distinctive American literature during the half century from 1765 to 1815.

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Wolcott was not less decisive in his political opinions than either of the other secretaries. But he had preserved toward the president great courtesy of manner; he was an excellent Secretary of the Treasury, whose place it might not be so easy to fill; and perhaps the president considered it politic to allow to the ultra section of the Federal party a representation, though not a majority in the cabinet. The places of the dismissed secretaries were very ably filled by Marshall as Secretary of State, and Dexter as Secretary of War.

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In desiring to make their position in the cabinet a vantage-ground from which to carry on an intrigue to defeat the president's re-election, and in considering themselves as suffering a political martyrdom in being removed, M'Henry and Pickering by no means correctly appreciated the true and proper relation in which a cabinet officer ought to stand. The president, being solely responsible for the executive administration, has an unquestionable right to the unshackled selection of his political advisers and executive assistants; and after so well expounding the matter, as he formerly had done to Monroe, Pickering ought never to have put the president to the necessity of dismissing him.

These dismissals increased the anxiety of the ultra Federalists to substitute Pinckney as president in the place of Adams. But this was a matter in which they could not move without the greatest risk of burying themselves as well as Adams in one common ruin. Should they openly attempt to deprive him of any Federal votes in order to give the majority to Pinckney, it could not be doubted that the same policy would be retorted upon Pinckney, so that the result might be to

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place them both behind the two opposition candidates. The mass of the Federals remained ignorant of the bitter feud which had sprung up among the leaders. That feud was still a political secret into which few were initiated, and but very slightly alluded to in the public prints. The feeling against Adams was confined, in a great measure, to a few active politicians. The attempt to diffuse their feeling among the mass could only give rise to dissensions in a party whose united force was hardly able to withstand the external pressure against it. Yet there were some so embittered against Adams as to be ready to operate for his defeat, even at the risk of bringing in Jefferson. Such was the feeling of Wolcott, who seems to have been chief engineer for the dissatisfied. Other cooler heads perceived that by no means whatever could the Federal leaders opposed to Adams more effectually destroy themselves in the public estimation than by following out a plan of impotent resentment, and thus bringing about the election of a man whom they had so long combined to hold up as devoid of every good principle, religious or political. In what a ridiculous position would they place themselves, after lauding Adams for four years as the wisest and firmest of men, to turn about and denounce him as one whose weakness, caprices, selfishness, and vanity made him unfit to be the head of a party or a nation!

July 22. The painful and almost helpless position of these intriguers is graphically portrayed in a letter from M'Henry to Wolcott. "Have our party shown that they possess the necessary skill and courage to deserve to be continued to govern? What have they done? They did not (with a few exceptions), knowing the disease, the man, and his nature, meet it, when it first appeared, like wise and resolute politicians; they tampered with it, and

thought of palliations down to the last day of the late session of Congress. Nay, their conduct even now, notwithstanding the consequences full in view, should the present chief be re-elected, in most, if not in all of the states, is tremulous, timid, feeble, deceptive, and cowardly. They write private letters. To whom? To each other. But they do nothing to give a proper direction to the public mind. They observe, even in their conversation, a discreet circumspection, ill calculated to diffuse information, or to prepare the mass of the people for the result. They meditate in private. Can good come out of such a system? If the party recover its pristine energy and splendor, shall I ascribe it to such cunning, paltry, indecisive, back-door conduct?" The Federal leaders in New England, dreading the weight of Adams's name and influence, desired that the first open demonstration against him, if any was to be made, as to which they very much doubted, should come from Maryland or New Jersey. But the Federalists of these two states, accustomed to look to New England for leadership, did not think it at all expedient to place themselves at the head of so serious a movement.

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Fully aware of the intrigues going on against him, Adams was not the man to remain quietly on the defensive. He freely denounced his Federal opponents under the appellation of the "Essex Junto"—several of their chief leaders in Massachusetts being residents in or connected with that maritime county—as a faction devoted to England, and whose real ground of complaint against him was that he had refused to involve the nation in an unnecessary war with France. Thus, both personally and through his partisans, he appealed to that spirit of animosity against England, deeply rooted in his own breast, and still operating with great force on the

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popular mind. The men thus struck at thought it hard indeed that this imputation of subserviency to England—a long-standing accusation of the opposition as against the whole Federal party, and of which Adams himself had been a special mark—should now be caught up by him and pointed exclusively against them; nor could they see any thing in it but a mere electioneering trick, a dishonest appeal to the passions and prejudices of the multitude. “You will at length,” so Ames wrote to Wolcott, “clearly discern in the gazettes the whole plan of a certain great man. It is by prating about impartiality, Americanism, liberty and equality, to gull the weak among the Feds. Half the wealthy can be made to repine that talents without wealth take the right hand of them. Purse-pride works in Boston. They are vexed that an Essex Junto should be more regarded than the men whose credit in money matters so far outweighs them. The Federalists hardly deserve the name of a party. Their association is a loose one, formed by accident, and shaken by every prospect of labor or hazard.”

Yet this charge of devotion to England, though some what exaggerated, was not by any means without foundation. Though, when first brought forward against the whole Federal party, it had been a mere chimera, the offspring of that unsatiated hatred which saw in any thing approaching to moderation and candor symptoms of a culpable attachment, it had come now in the course of events to describe something that actually existed—a counterpart, though comparatively a very modest one, to that French faction which had exercised so powerful an influence upon the national politics. Sympathy for revolutionary France, regarded as the champion of political and social reforms as against the ancient despotisms of Europe, had created a faction in the United States, the

object of which seemed to be to throw America headlong into the arms of France—an object supported and encouraged, to a very considerable extent, by the general opposition of which this faction formed a part. At first these enthusiasts had found their principal resistance in the firmness of Washington, the sagacity of Hamilton, and especially from that inertia which always opposes itself to any great and sudden movement. But those excesses of the French Revolution which, at the moment of their happening, had seemed to strike the public attention as little more than a horrible dream, had begun, in the minds of a large portion of the community, to assume the character of terrible realities, and to be brooded over, without any very nice analysis of their real causes, as the necessary consequences of the practical application of those principles which the leaders of the French Revolution had proclaimed—principles held up to execration under what had now become the odious name of Jacobinism. As developed in practice, whatever it might be in theory, the system of Jacobinism had turned out to be nothing more than the violent seizure of power by successive factions of audacious, enthusiastic, and turbulent men, impatient of all control and greedy of authority, who, as the pretended agents of the people, and in the name of the rights of man, had successively exercised a horrible despotism, not to be paralleled except by the worst passages in the history of the worst times. A natural reaction against the admirers and would-be imitators of such a system and such men, joined to the late outrageous conduct of France, and to the fact that England seemed to be the only power capable of offering to her any effectual resistance, had in many bosoms extinguished the Revolutionary antipathy to Great Britain, and had gradually brought her to be regarded as the great

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champion of law, order, religion and property, against what seemed the demoniac fury of the French Revolutionists. Of those entertaining these feelings there were many ready and anxious to join England in the war against France, as the only means of saving the United States from French influence and Jacobin triumph. Naturally enough, they had been greatly displeased at the renewal of negotiations with the Directory; and these were the men whom Adams denounced, and not altogether without reason, as constituting an English faction. With the same degree of truth with which they had charged French influence as operating on Jefferson and his associates, they might be now said to be themselves acting under English influence. French sympathies and English sympathies, would, in either case, have been the more accurate expression; but the language of political passion, always greatly exaggerated, makes, at the best, only a certain approach toward the truth.

Very unfortunately for Adams, as to this point of British influence, his enemies of both parties were enabled, just at this moment, to put him to a mortifying disadvantage. An old letter of his, made public by a gross breach of confidence—the same referred to in Walcott's account of the opening of the late session of Congress, quoted in the preceding chapter—displayed in a striking light some of the weakest points of his character. Like all persons of his impulsive temper, always too ready to betray himself by his tongue or his pen, Adams had been inveigled, during Washington's first term of office, into a confidential correspondence with Tench Coxe, a mousing politician and temporizing busy-body, though a man of considerable financial knowledge and ability, who held at that moment the place of Assistant Secretary of the Treasury. The insignificance of

Adams's position as vice-president was, as we have had occasion to notice, far from agreeable to his active temperament. He had even expressed a readiness to return to England as ambassador—an appointment, however, which Washington did not think consistent with the position of vice-president, which Adams desired to retain. It was perhaps in a fit of ill humor at this disappointment, that Adams had written a letter to Coxe (May, 1792) in which was contained the following passage: "The Duke of Leeds once inquired of me, very kindly, after his classmates at Westminster school, the two Mr. Pinckneys, which induces me to conclude that our new ambassador has many powerful old friends in England. Whether this is a recommendation of him for the office or not, I have other reasons to believe that his family have had their eyes fixed upon the embassy to St. James for many years, even before I was sent there, and that they contributed to limit the duration of my commission to three years, in order to make way for themselves to succeed me. I wish they may find as much honor and pleasure in it as they expected, and that the public may derive from it dignity and utility; but knowing as I do the long intrigues, and suspecting as I do much British influence in the appointment, were I in any executive department, I would take the liberty to keep a vigilant eye upon them." Subsequently to this correspondence, under the new arrangement of parties which grew out of the French Revolution and Jay's treaty, Coxe, who made some pretensions to speculative science, became, like almost all persons of that description, a zealous partisan of France, and, of course, a member of the American opposition. Being dismissed from the office of Supervisor of the Revenue, shortly after Adams's accession to the presidency for gross misbe-

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havior, as the Secretary of the Treasury alleged, but as Coxe would have it, on account of his political principles—in fact, for carrying stories about the treasury to the Aurora, where they were detailed with great exaggeration and a very false coloring—he waited his opportunity for revenge. Nor did he have occasion to wait long. An indictment, under the Sedition Law, having been found against Duane, the editor of the Aurora, and part of the matter charged as libelous relating to this very subject of British influence, Coxe furnished Duane with Adams's letter, as a piece of evidence toward proving the truth of the charge. The district attorney, to whom the letter was shown, perceiving the delicate position in which Adams would be placed by it, was induced to let the prosecution drop. But this was not the end of it. Coxe's letter, handed about in manuscript, had contributed greatly, according to Wolcott's statement already quoted, to impair the confidence in each other formerly existing among the leaders of the Federalists. So long as it remained in manuscript, Pinckney, though well aware of its existence, had not deemed himself called upon to notice it. Subsequently to the adjournment of Congress it was printed in the Aurora, to which Coxe, about that time, became a principal contributor; whereupon Pinckney wrote from Charleston, in a tone not only respectful but friendly, calling the president's attention to it as probably a forgery. Adams, in his reply, which he caused at once to be published in the newspapers, while strongly expressing his obligations to Pinckney for the tone in which he had addressed him, acknowledged the authenticity of the letter, at least as to its substance, and gave the following explanation of it. He had been told in London, shortly after his arrival there as ambassador, that it had been said there by a Mr.

Pinckney, a member of the Continental Congress, that the limitation of three years, inserted into his commission as minister (which had struck his attention as something new), had been placed there for the purpose of getting rid of him at the end of that period; and that, as soon as that happened, a Mr. Pinckney, of South Carolina, would be appointed in his place. Bearing in mind this old piece of gossip, when he understood that a Mr. Pinckney had been appointed ambassador to England, he had concluded at once that the intrigue set on foot eight years before had at last been brought to a successful conclusion. It is a striking proof, among many others, how little, in the early days of the Federal administration, remote states knew of each other, that Adams, when he wrote his letter to Coxe, was ignorant how many Mr. Pinckneys had attained to political consideration in South Carolina, or in what relations they stood to each other, and was thus led to confound Charles Pinckney, now one of the South Carolina senators, and who had been a member of the Continental Congress in 1785, with Thomas Pinckney, and his brother Charles C. Pinckney; or, at least, to suppose between them a political sympathy and co-operation which did not exist. Notwithstanding this ignorance, if, instead of listening to mischief-making tattlers and the hasty suggestions of his own jealousy, Adams had examined the printed Journal of the Continental Congress, he would have found that the limitation of three years, though moved by Charles Pinckney, had been introduced prior to the nomination of Adams to England, had been extended to all foreign missions alike, had been seconded by Howell of Rhode Island, the very member by whom Adams was afterward nominated, had been supported by Gerry, always Adams's friend, and had been voted

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for by all the New England states; so that the idea of any blow aimed at him in particular was evidently a mere chimera.

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As to the suggestion of British influence, Adams attempted to put this gloss upon it. Taking the friendly inquiries of the Duke of Leeds as proof that the Pinckney family had influential acquaintances in England, he had been led to suppose that an intimation, in which there was nothing unusual or improper, had been given to the American government that one of the Mr. Pinckneys would be favorably received by the British court; and he averred that in alluding to British influence, he had intended no more than that.

Having thus explained away, as far as he could, the letter to Coxe, Adams proceeded to make the best reparation in his power, by expressing in strong terms his high opinion of both Thomas Pinckney and his brother Charles C. Pinckney—now the joint Federal candidate with Adams, and, in fact, his rival for the presidency. Since his letter to Coxe, he had enjoyed ample opportunities, so he stated, for knowing the conduct of both; and, so far as had come to his knowledge, they had displayed minds candid, able, independent, and wholly free from any improper bias toward Great Britain or any other country. Both had rendered important public services, nor did he know any two gentlemen more deserving of public confidence. "I can not conclude," such was the closing paragraph of his letter, "without observing that we are fallen on evil times; on evil times, indeed, are we fallen, if every piece of private conversation is immediately to be betrayed and misrepresented in the newspapers, and if every frivolous and confidential letter is to be dragged by the hand of treachery from its oblivion of eight years, and published by malice and

revenge for the purpose of making mischief." The allusion in this last paragraph to unguarded conversations betrayed and misrepresented was no doubt intended to apply, not to Coxe, but to a remarkable pamphlet of Hamilton's, which had then just issued from the press, and extracts from which had already been surreptitiously published in the Aurora and in Holt's New London Bee.

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The reiterated charge made by the president in private conversations against his Federal opponents, and now beginning to be repeated by his partisans in the newspapers, that they were a British faction, rankled deeply in their bosoms. Hamilton, especially, was very indignant; and learning that the president had repeatedly mentioned him by name as acting under British influence, he had written a respectful letter requesting explanations. The president took no notice of this or of a subsequent letter on the same subject, and his silence, while it aggravated the feelings of Hamilton, confirmed him in a resolution, as to which Cabot and Wolcott in vain discouraged him, to finish and print, with his own name to it, a pamphlet to be privately circulated among the leading Federalists, vindicating himself against the insinuations of Adams and his partisans, and also setting forth the reasons why Pinckney ought to be preferred for president.

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That Hamilton had abundant personal provocation to the writing and circulation of this pamphlet can not be denied. In the then existing state of the public feeling, the charge of subserviency to Great Britain was terrible indeed; and, unless satisfactory explanations were given, he and his friends were in danger of political ruin from Adams's charges. Besides, he had the best reasons for believing that, with respect to himself in particular, Adams had repeatedly indulged in the

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most virulent and indecent abuse, not only stigmatizing him as the leader of a British faction, but assailing even his private character, and holding him up as a man destitute of every moral principle; charges afterward repeated in that famous Cunningham correspondence of Adams's, from which we have already made several quotations—and which continue to be cited as testimony by writers who would have us believe that in his relations with women Hamilton was as profligate as Mifflin, Burr, or Edwards; a slander mainly founded on the case of Mrs. Reynolds, and upon which, in the absence of other matter of attack, Adams's austere Puritanism seized with an eagerness quite rabid.

It was the great object of Hamilton's pamphlet to show, without denying Adams's patriotism and integrity, and even talents of a certain kind, that he was not adapted to the administration of government, there being in his character great and intrinsic defects which unfitted him for the office of chief magistrate. The chief of these defects were stated to be "an imagination sublimated and eccentric, propitious neither to the regular display of sound judgment, nor to steady perseverance in a systematic plan of conduct;" "a vanity without bounds;" "a jealousy capable of discoloring every object;" "disgusting egotism and ungovernable indiscretion." This was, to be sure, a somewhat strong presentation of the dark side of Adams's character, yet, in the main, it was correct—for his was a character not to be faithfully portrayed, whether as to its lights or its shadows, except in pretty strong colors. In proof of its correctness, Hamilton added a sketch of Adams's political career, especially of his late official acts, interspersed with a number of authentic anecdotes, which showed, indeed, how little control Adams often had over

nis tongue and his pen, and how, in moments of excitement, he gave vehement and unguarded expression to his feelings. But all this was very far from proving—what was charged, not in this letter only, but in the private correspondence as well of Jefferson as of Wolcott—that Adams acted without any settled plan, without any fixed system or theory, and much more under the guidance of caprice and passion than of judgment. Passion-tossed, and sometimes transformed, undoubtedly he was, as all persons of his hot temperament and vivacious imagination always must be. His, indeed, was a character hardly comprehensible by the serene and magnanimous Hamilton, the steady, sagacious Wolcott, or the crafty, secretive, dissembling Jefferson. Yet Adams's excitable temperament was qualified, and as to all his most important public actions, overmastered and controlled, by a vigorous judgment, penetrating and prompt, of which, in the great events of his life, "his sublimated and eccentric imagination" was, as results proved, not so much the master, as the useful and ready servant.

As to himself—a subject on which he dwelt but briefly—Hamilton might well declare, as he formerly had done in answer to Jefferson's assaults, that "in the cardinal points of public and private rectitude—above all, in pure and disinterested zeal for the interest and service of the country," he "shrank not from a comparison with any arrogant pretender to superior and exclusive merit." In reply to the charge of being the leader of a British faction, he denied having ever advised any connection with Great Britain other than a commercial one, or the giving to her any commercial privilege not granted to other nations; nor had he ever been able to make up his mind as to the expediency of even a temporary alliance in case of a rupture with France.

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Although, as between themselves personally, Hamilton had ground enough for his pamphlet; though the tone of it, all things considered, was exceedingly candid; and though his placing his name to it was in honorable contrast to Adams's silent evasion of charges which, however he might reiterate them, he did not venture to avouch under his own hand; yet the expediency of the publication at this particular crisis was somewhat more than doubtful. Such, indeed, was the position of affairs, that Hamilton was obliged to stultify himself, as it were, by declaring, in conclusion, that he did not recommend the withholding from Adams of a single vote! He expressed his intention so to regulate the circulation of the pamphlet that it might not operate in that way to Adams's disadvantage, and his wish, also, to confine it within narrow limits. But, whatever might have been his intentions or wishes—and the expectation of making a secret of such a printed pamphlet was chimerical at the best—they were defeated at the outset by the watchful and artful Burr, who obtained one of the earliest copies, and sent off extracts, as already mentioned, to the *Aurora* and Holt's New London Bee. This made the appearance of an authentic edition necessary; and it issued from the press coterminously with the publication of Adams's letter to Pinckney.

It is now time to take a look at the embassy to France, the immediate cause of these bitter and ominous dissensions among the Federal leaders. As, at the moment of Ellsworth's and Davie's embarkation, the French government was evidently on the eve of one of its periodical revolutions, it had been thought best that the frigate in which they sailed should touch at Lisbon for information. On arriving at that port they heard of the Revo-

lution of Brumaire (November 8, 1799), which some three weeks before had placed Bonaparte at the head of the state. The frigate then made sail for L'Orient, but, after being tossed for a fortnight in the stormy Bay of Biscay, was obliged to put into Corunna. Thence the commissioners wrote to Talleyrand, who still remained, under the new administration, at the head of foreign affairs, asking passports for themselves, and that one might also be sent to Murray at the Hague; and inquiring if the circumstance that their letters of credence were addressed to the Directory, now passed away, would make any difference in the matter of their reception.

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Talleyrand replied that the ministers were waited for with impatience, and would be received with warmth. Thus encouraged, they proceeded to Paris, where they found their colleague Murray, who had arrived three days before them. A few days after, they were formally received by the first consul; and three plenipotentiaries, Joseph Bonaparte at the head, were appointed to treat with them.

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But a serious obstacle soon appeared which threatened to defeat the negotiation. The American commissioners were peremptorily instructed to insist on the renunciation of the old treaties, which had been declared void by Congress, and also upon indemnity for spoliations on American commerce. The French commissioners were unwilling to relinquish the old treaties, especially the provisions relating to the admission of French privateers and prizes into American ports, the more so as this privilege, lost to the French, would, under Jay's treaty, be exclusively vested in the English so long as the present war continued. They were still more unwilling to pay any indemnities, for which they insisted there could be no claim except upon the assumption that the treaties

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continued in force. After a good deal of delay for additional instructions, caused by Bonaparte's absence from Paris, they finally offered this alternative: the old treaties, with stipulations for mutual indemnities, or a new treaty on equal terms, but without indemnities. After a good deal of correspondence, the American envoys suggested a renewal of the old treaties, but with a reservation to the United States of a right to buy off their obligations by the payment of certain fixed sums; but the French commissioners were not inclined to adopt this suggestion, which would still have thrown the balance of payments against France. They frankly acknowledged that, as France had no money, it was a great object with her to avoid the payment of indemnities at all; and they were, no doubt, the more encouraged to insist upon this, as the instructions of the former envoys, laid before Congress and published, had allowed of such a settlement.

As the instructions of the present envoys, more stringent than those of the former mission, did not allow them to accept either of the French offers, the alternative was either to abandon the negotiation, or to make a temporary arrangement, subject to rejection or approval by the American government, such as might relieve the United States from that position of semi-hostility in which they stood toward France—a position rendered every day more dangerous by the successes of Bonaparte and the growing prospect of a general European peace—an arrangement which, should the war continue, might secure American commerce, as far as possible, against those abuses of belligerent rights, on the part of the French, under which it had suffered so much; saving also the great amount of captured American property on which the French Council of Prizes had not yet passed definitive sentence.

On this basis a convention was presently concluded ; referring to future negotiation, as well the indemnities mutually claimed as the binding force of the old treaties, which, meanwhile, were to remain inoperative ; providing for the mutual restoration of public ships taken by either party, and indeed of all captured property, French or American, not already condemned ; also for the mutual payment of all debts due ; whether by the governments or by individuals ; the commerce, and the public and private ships of either party, to enjoy in the ports of the other the privileges of the most favored nation. The remaining articles were principally devoted to the security of American commerce against those multiplied vexatious pretenses hitherto set up by the French cruisers, and countenanced by the government and the tribunals. The provision of the old treaty that free ships should make free goods was still retained in the new convention.

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Meanwhile, in America, the grand struggle destined to decide, for years to come, the policy and conduct of the Federal government, was fast approaching its crisis. Three, or, rather, four different modes of choosing electors of president and vice-president had been hitherto in use ; a choice by the Legislature, either by joint ballot or concurrent vote ; an election by the people, by general ticket, the whole number of electors being voted for on one ballot throughout the state ; or a choice by districts. The latter method was evidently that which gave the fairest expression of public opinion, by approaching nearest to a direct vote. But those states which adopted it were placed at the disadvantage of being exposed to a division of their strength and neutralization of their vote ; while the electors chosen by either of the other

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methods voted in a body on one side or the other, making the voice of the state decisively felt. This consideration had induced the two leading states of Massachusetts and Virginia to abandon the district system. In Virginia, where the party in opposition to the Federal government was overwhelmingly predominant, the choice had been given to the people by general ticket; in Massachusetts, where parties were more equally divided, it had been retained by the Legislature. In Maryland the Federalists controlled the state Senate, and, had they succeeded in carrying the House, they would also have adopted a choice by the Legislature; but in the election for members of the House, which had just taken place, the opposition had obtained a majority, and the choice by districts remained as before. Similar causes produced a similar result in North Carolina. In Pennsylvania, also, the opposition succeeded to their wishes in electing a majority of the Lower House of Assembly; but the Federalists still retained their majority in the Senate, and when M'Kean called the Assembly together for the choice of electors, it was not so easy to arrange how it should be made. The Republicans were very eager for a choice by joint ballot, which would have given them the whole; but to this the Senate would not consent, except on terms such as would secure to the Federalists a share of the electors. They proposed that eight out of the fifteen might be the nominees of the House, the other seven to be nominated by the Senate. This offer, made in various shapes, was several times peremptorily rejected; but as, in the very close division of parties, one vote might determine the election, it was agreed to at the last moment, and a bill was passed, by the provisions of which each house was to nominate eight candidates, from whom, by joint ballot, the fifteen

electors were to be chosen. Pennsylvania, of course, stood eight opposition to seven Federal electors. A similar neutralization of political forces had taken place in the other states where the district system was maintained. Maryland was equally divided; North Carolina elected eight Republican electors to four Federalists. The Federal ticket prevailed entire in the four New England states; also in New Jersey and Delaware. Opposition electors were chosen in New York, and in all the states south of the Potomac, the four Federalists in North Carolina excepted. In South Carolina, where the choice was by the Legislature, in which were many members of doubtful politics, the result had been regarded as very uncertain. The opposition offered to compromise on Jefferson and Pinckney; but, after consideration, the Federalists resolved to stand by their own ticket; which was lost, however, by from fifteen to eighteen votes in a house of one hundred and fifty-one members. This gave a majority of eight opposition electors in the colleges; but, even after this was known, the result still hung in suspense. It was not certain that the electors on either side would strictly conform to the party nominations, for the original intention of the Constitution was still so far respected that public opinion, as yet, conceded to the electors a certain private liberty of choice. Pinckney and Burr might be so far dropped, and the names of Jefferson and Adams substituted, as to bring in again the present incumbents, though, perhaps, with a change of position. Jefferson seems, with his usual dissimulation, still to have flattered Adams—easily imposed upon by such an appeal to his vanity—with the idea of having no higher ambition than to continue to serve under him. But the game did not lie entirely between Jefferson and Adams. Pinckney might get some Southern votes withheld from

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all the electors conformed strictly to party nominations,
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The removal, under the provisions of the act of the first Congress, of the seat of government to the new Federal city on the Potomac, which took place in the course of the summer, might seem a sort of forerunner of the transfer of Federal control from the North to the South; and a fanciful mind might also discover, in the contrast between Philadelphia and the new City of Washington, a symbolization of the difference between Federal politics and those of the opposition. Looking merely to the accommodations already prepared, the removal might seem somewhat premature. Only the north wing of the Capitol was finished. That, however, had been fitted up so as to accommodate both houses of Congress. The president's house was completed externally, but the internal finishing was quiet behindhand.

July 4. "There is one good tavern," so Wolcott wrote shortly after his arrival there, "about forty rods from the Capitol, and several other houses are built or erecting; but I do not see how the members of Congress can possibly secure lodgings, unless they will consent to live like scholars in a college or monks in a monastery, crowded ten or twenty in one house, and utterly secluded from society. The only resource for such as wish to live comfortably will be found in Georgetown, three miles distant, over as bad a road in winter as the clay grounds near Hartford. I have made every exertion to secure good lodgings near the office, but shall be compelled to take them at the distance of more than half a mile. There are, in fact, but few houses in any one place, and most of them small, miserable huts, which present an awful contrast to the public buildings. The people are

poor, and, as far as I can judge, they live like snakes, by eating each other. All the ground for several miles around the city, being, in the opinion of the people, too valuable to be cultivated, remains unfenced. There are but few inclosures, even for gardens, and those are in bad order. You may look in almost any direction, over an extent of ground nearly as large as the city of New York, without seeing a fence or any object except brick-kilns and temporary huts for laborers. Mr. Law—a brother of the subsequent Lord Ellenborough, who had transferred to America, and had vested to a large extent in Washington City lots, a great fortune acquired in India —“and a few other gentlemen live in great splendor, but most of the inhabitants are low people, whose appearance indicates vice and intemperance, or else negroes. All the lands which I have described are valued at fourteen to twenty-five cents the superficial foot. There appears to be a confident expectation that this place will soon exceed any city in the world. Mr. Thornton, one of the commissioners, spoke of a population of 160,000 as a matter of course in a few years. No stranger can be here a day, and converse with the proprietors, without conceiving himself in the company of crazy people. Their ignorance of the rest of the world, and their delusions with respect to their own prospects, are without parallel. Immense sums have been squandered in buildings which are but partly finished, in situations which are not, and never will be, the scenes of business, while the parts near the public buildings are almost wholly unimproved. On the whole, I must say that the situation is a good one, and I perceive no reason for suspecting it to be unhealthy; but I had no conception, till I came here, of the folly and infatuation of the people who have directed the settlements.

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Though five times as much money has been expended as was necessary, and though the private buildings are in number sufficient for all who will have occasion to reside here, yet there is nothing convenient and nothing plenty but provisions; there is no industry, society, or business."

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Mrs. Adams's account of matters when she came to take possession of the presidential mansion, since familiarly known as the White House, was hardly more flattering. "Woods are all you see from Baltimore until you reach the *city*, which is only so in name. Here and there is a small cot, without a glass window, interspersed among the forests, through which you travel miles without seeing a human being. In the city there are buildings enough, if they were compact and finished, to accommodate Congress and those attached to it; but as they are, and scattered as they are, I see no great comfort for them.

"The house is upon a grand and superb scale, requiring about thirty servants to attend and keep the apartments in proper order, and perform the ordinary business of the house and stables; an establishment," she ironically adds, "very well proportioned to the president's salary. The lighting the apartments from the kitchen to parlors and chambers is a tax indeed; and the fires we are obliged to keep to secure us from daily agues is another cheering comfort." "If they will put me up some bells—there is not one hung through the whole house, and promises are all you can obtain—and let me have wood enough to keep fires, I design to be pleased. I could content myself almost any where three months; but, surrounded with forests, can you believe that wood is not to be had, because people can not be found to cut and cart it! Briesler entered into a contract with a

man to supply him with wood. A small part—a few CHAPTER
cords only, has he been able to get. Most of that was XV.
expended to dry the walls of the house, before we came 1800.
in, and yesterday the man told him it was impossible to
procure it to be cut and carted. He has had recourse
to coals; but we can not get grates made and set. We
have indeed come into a *new country*."

The public offices had hardly been established at Washington, when the War Office took fire and was burned, occasioning the destruction of many valuable papers. In the course of the winter a like accident happened to the Treasury Department, though there the destruction of papers was less. In the rabid party fury of the times, Pickering's dismissal from office had been ascribed by the *Aurora*, which all the other opposition papers copied, to great pecuniary defalcations; and now, in the same spirit, these fires were attributed to design on the part of certain public officers, who, it was said, hoped thus to destroy the evidence of their deficiencies.

Before the choice of electors in South Carolina was yet known, and while the event seemed to depend on that state, Congress came together at the new city. The Nov. 22
president's speech announced the prospect of an arrangement with France; but, at the same time, suggested that the United States could not, without dangerous imprudence, abandon the means of self-defense adapted to their situation, and to which, notwithstanding their pacific policy, the violence and injustice of other nations might soon compel them to resort. Considering the extent of the American sea-coast, the vast capital engaged in trade, and the maritime resources of the country, a navy seemed to be the most effectual instrument of defense. Seasonable and systematic arrangements for that purpose, so that, in case of necessity, a naval armament

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might be quickly brought into use, appeared to be as much recommended by a wise and true economy as by regard for future peace and security. Perseverance in the fortification of the principal sea-ports was recommended as a subsidiary means of defense, and attention also to the manufacture of arms. These, with a reorganization of the judiciary establishment, and the necessary legislation for the District of Columbia, constituted the chief topics of the speech.

Ever since the dismissal of his colleagues, Wolcott had felt his position in the cabinet very uncomfortable; but the urgency of his friends, and the desire to leave the affairs of his department on a good footing, had hitherto induced him to remain. He had fixed, however, on the end of the year as a period for retiring, of which he notified the president and the House, asking, at the same time, an investigation into his official conduct. He left the treasury in a flourishing condition. The duties on imports had exceeded those of the year preceding by nearly two millions and a half; the sum of \$734,000 had been received from the direct tax; the internal duties produced near a million; and as the disbanding of the additional regiments had diminished the expenses below the estimates, the treasury contained, when Wolcott left it, a balance of \$2,623,000, a greater amount than at the close of any previous year. The larger part of the loan of \$3,500,000, authorized at the last session, had been taken up, but repayments had been made nearly to an equal amount. The total receipts of the year, loans included, came to \$12,451,000, very nearly the same with those of the previous year. The total expenditures amounted to about twelve millions, near a million more than those of the year preceding. The balance in the treasury was mainly derived from

the balance on hand at the commencement of the year.

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Dexter was appointed Secretary of the Treasury in Wolcott's place. The War Department, after two or three unsuccessful attempts to find a successor for Dexter, remained without a head. Neither Wolcott nor Pickering, however they might be denounced by their Virginia rivals as monarchists and aristocrats, had, like Jefferson, Madison, and so many other Southern democrats, hereditary plantations to retire to, where they might play the patriarch, and live in aristocratic leisure on the unpaid labors of a numerous family of slaves. After twelve years of laborious and important public service, Wolcott left office with not six hundred dollars in his pocket. His ideas extended no farther than to the purchase of a small farm in his native Connecticut on which to support his family. Pickering had no property except some wild lands in the Wyoming settlements of Pennsylvania, purchased after his retirement from the army, but not yet paid for. Thither he had retired with his numerous young family, to cut a farm out of the wilderness. But his Massachusetts friends of the Essex Junto, unwilling to see his services thus lost to the public, bought his lands at a generous price, and so enabled him to purchase a small farm near his native Salem, where he lived for a quarter of a century in the extremest republican simplicity, but not without, as we shall presently see, an active participation in public affairs.

Among the first subjects of discussion in Congress was the erection of a monument to Washington, in conformity with the resolves adopted at his death. A bill had been introduced and partially discussed at the last session for building a marble mausoleum of a pyramidal shape, with a base of a hundred feet. This was violent-

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ly opposed by many Republican members, who thought a plain slab of marble quite enough. History and his country's gratitude would serve, they said, as his true monument. In the course of the debate, attention was called to an unexecuted resolve of the Continental Congress, adopted on Washington's resigning his military command, for an equestrian statue. This would be cheaper than the pyramid, yet not quite so plain and simple as the slab. The bill for a mausoleum finally passed the House, with an appropriation of \$200,000. The Senate reduced the appropriation to \$150,000, and proposed a board of commissioners to agree upon a proper monument. The House proposed other amendments; and, finally, in the hurry at the close of the session, the whole subject was postponed. The next Congress, in which the opponents of Washington's policy had an overwhelming majority, found other subjects more interesting than his memory and honor; and, after a lapse of some fifty years, the erection of a monument has at length been undertaken by private subscription.

Dec. 11. Shortly after the opening of the session, Davie arrived at Norfolk, bringing with him the convention with

Dec. 15. France. When it was laid before the Senate, those Federal members who had opposed the mission raised a loud complaint that no indemnity had been secured for the spoliation committed on American commerce, and that the old treaties with France had not been definitively dissolved. Out of distrust, probably, of what the incoming administration might do, they refused to ratify the article referring those two subjects to future negotiation; proposing, as a substitute for it, a limitation of the convention to eight years. A strong effort was also made to expunge the provision for the mutual restoration of public vessels—a provision solely for the benefit

of the French. But this failed, out of fear lest the French might insist, in their turn, upon retaining all captured vessels and property—a provision principally beneficial to America. CHAPTER
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During the summer, quite a number of French privateers had fallen into the hands of the American cruisers, amounting, with those previously taken, to about fifty sail. There were also numerous recaptures of merchant vessels previously taken by the French. Lieutenant Charles Stewart, in the schooner *Experiment*, of twelve guns, being chased by a French brig and a schooner, the one of eighteen and the other of fourteen guns, had the address to separate the hostile vessels, after which he engaged and carried the schooner, on board of which was the mulatto general Rigaud, who had been deprived of his command in St. Domingo, and ordered to France. Nov.

Later in the season, Stewart engaged and captured a British letter of marque, which, on being chased and brought to action, had refused to show her colors, or to answer repeated hails. Of course, on discovering her national character, she was immediately set at liberty. Fortunately, no lives had been lost, except one on board the *Experiment*. About the same time, the French national corvette *Berceau*, of twenty-four guns, after a sharp action of two hours, struck to the Boston sloop of war Captain Little, and, though very much cut up, was brought safely into port.

Adams would decidedly have preferred the convention as it originally stood, so he informed the Senate; but he ratified it, nevertheless, as it had been altered, and appointed Bayard, as minister, to carry out the ratification to France. 1801.
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Bayard, however, declined the appointment, and, without any further nomination, Adams left the matter to the incoming administration. By the terms

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of the act, the non-intercourse of France expired at the termination of the session.

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When the amended convention was afterward presented to Bonaparte, he added a proviso that the expunging of the article respecting future negotiations should be understood as an abandonment of the claims set up on both sides, thus bringing it to correspond to one of the rejected proposals of the French commissioners—a new treaty without indemnities. It was in this shape that the convention was finally ratified, the result of the Senate's amendment being a relinquishment of all claims for spoliation, in consideration of an absolute release from the French guarantee. Had the treaty been ratified in its original shape, the sufferers by the spoliation of the French might, perhaps, before now, have obtained that indemnity from the French government which they have ever since been asking of their own, but which has hitherto been unjustly withheld.

The great act of the session was the reorganization of the judiciary, so long in contemplation, and so warmly recommended by the president. The requiring the circuit courts to be held by the judges of the Supreme Court had not only tended to the delay of justice by the insufficiency in the number of judges—making due allowance for unavoidable absences occasioned by sickness or otherwise; but the keeping the judges constantly on the road, at a time when there were few facilities for travelling, rendered their office laborious and undesirable, and consumed time which might have been better bestowed in the study of the various new and difficult questions which they were called upon to decide. In fact, the constitutional power of Congress to require the judges of the Supreme Court to act as circuit judges had been called in question by Chief-justice Jay.

By the new act, the judges of the Supreme bench, to be reduced to five whenever a vacancy occurred, were released from all circuit duty. The number of district courts was increased to twenty-three by the subdivision of New York, Pennsylvania, Virginia, and Tennessee, each into two districts, and the erection of a new district northwest of the Ohio. These twenty-three districts were arranged into six circuits, the first composed of Massachusetts, including Maine, with New Hampshire and Rhode Island; the second, of Connecticut and New York; the third, of New Jersey, Delaware, and Pennsylvania; the fourth, of Maryland and Virginia; the fifth, of the two Carolinas and Georgia; and the sixth, of Kentucky, Tennessee, and the territories north of the Ohio; to have each a bench of its own, composed of a chief judge and two puisne judges, to hold two courts annually in each district of the circuit.

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The effect of this act was to create twenty-three new judicial officers, besides attorneys, marshals, and clerks for the additional districts, at an annual expense of about \$30,000. The necessity of some change was so obvious, taking into account, especially, the increase of business likely to grow out of the new Bankruptcy Act, that no very vehement resistance was made in Congress; and, though the opposition voted in a body against it, not improbably, had the appointment of the judges been left to the incoming administration, the act might never have been disturbed. But, as Adams proceeded at once to fill up the offices, and that, too, by the appointment of distinguished Federalists, a loud clamor was immediately raised, the effects of which will presently appear.

The president showed a magnanimity which took Wolcott quite by surprise, and which, indeed, he had little reason to expect, in appointing him one of the judges of

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the second district. He had also taken an early opportunity, after M'Henry's retirement, to express to Wolcott his respect and his esteem for that gentleman, and his satisfaction that M'Henry's ample private fortune made the holding of office a matter, in his case, of no pecuniary importance. Ellsworth, who was still detained in Europe by ill health, had sent in his resignation of the office of chief justice, and, previous to the passage of the new Judiciary Act, the president had conferred that capital post on Marshall, his secretary of state. Jay had been first nominated, but he declined, having made up his mind to retire from public life. Marshall still continued, notwithstanding his new office, to discharge the duties of Secretary of State.

Pending these proceedings, the returns of the electoral votes gradually came in, from which, at length, it became certain not only that the Republican ticket had triumphed, as had been generally expected, but, what was far from being so agreeable to most members of the Republican party, that Jefferson and Burr had both received the same number of votes. The understanding among the Federalists to vote equally for Adams and Pinckney had been faithfully carried out, except in Rhode Island, where one vote had been withheld from Pinckney and given to Jay, leaving Pinckney sixty-four in the whole to Adams's sixty-five. Jefferson and Burr had each seventy-three votes, and the decision between them devolved, under the Constitution, upon the House of Representatives voting by states.

Though the Federalists had a decided majority of members, they could not command, for the purposes of this election, a majority of states; but neither could the other party. The single Federal representative on whom, by the death of his colleague, the vote of Georgia had

devolved, also Dent, one of the Federal representatives from Maryland, had decided to conform to the wishes of their constituents by voting for Jefferson. This gave Georgia to the Republicans, and equally divided the vote of Maryland. North Carolina was also equally divided ; but one of the Federal members took the same view with the above-mentioned members from Maryland and Georgia. The friends of Jefferson were thus sure of eight votes. But there still remained two other states equally divided, Maryland and Vermont ; which, added to South Carolina, Delaware, and the four maritime New England states, prevented a majority.

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In this state of things, the idea was conceived by the Federalists of disappointing Jefferson and the body of the opposition by giving the first office to Burr. Before the equality of votes was precisely ascertained, Burr had written a letter disclaiming any competition for the first office, and constituting Smith, of Maryland, to whom the letter was addressed, his proxy so to state, if occasion should happen. But it was not supposed that this commitment would at all deter Burr, should a promising occasion present itself, from exerting all his skill and art to secure his own promotion over Jefferson's head ; and it was thought that the two divided states, with New York and New Jersey, and perhaps Tennessee, of which the vote was held by a single representative, C. C. Claiborne, might furnish the requisite voices.

Bayard, of Delaware, Morris, of Vermont, or Craik, Baer, Dennis, or Thomas, of Maryland, all Federalists, might at any time, by their single votes, give to Jefferson an additional state, and so decide the election in his favor. On the other hand, Bailey and Livingston, of New York, neither of whom were thought specially favorable to Jefferson, with Lynn, of New Jersey, and

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Dent, of Maryland, the former a half Federalist, the latter entirely one, might, by their united votes, give Burr three additional states, sufficient to elect him ; or the vote of Lyon or Claiborne, by giving him Vermont or Tennessee, might supply the lack of one of the others.

Burr, being a Northern man, was on that account preferred by the Federalists, whose strength lay in that quarter of the Union. It was also hoped that his elevation to the first office might produce such a split in the opposition ranks as would still leave the control of affairs substantially in the hands of the Federalists, to whom Burr himself would owe a debt of gratitude. This idea had been suggested early in the session, and before the result of the election was certainly known. As soon as it came to Hamilton's knowledge, he entered a vigorous

- Dec. 16. protest against it. "I trust New England, at least," so he wrote to Wolcott, "will not so far lose its head as to fall into the snare. There is no doubt that, upon every prudent and virtuous calculation, Jefferson is to be preferred. He is by far not so dangerous a man, and he has pretensions to character. As to Burr, there is nothing in his favor. His private character is not defended by his most partial friends. He is bankrupt beyond redemption, except by the plunder of his country. His public principles have no other spring or aim than his own aggrandizement. If he can, he will certainly disturb our institutions to secure himself permanent
- Dec. 17 power, and with it wealth." "Let it not be imagined that Burr can be won to Federal views. It is a vain hope. Stronger ties and stronger inducements will impel him in a contrary direction. His ambition will not be content with those objects which virtuous men of either party will allot to it, and his situation and his habits will oblige him to have recourse to corrupt expe-

dients, from which he will be restrained by no moral scruples. To accomplish his ends, he must lean upon unprincipled men, and will continue to adhere to the myrmidons who have hitherto surrounded him. To these he will no doubt add able rogues of the Federal party; but he will employ the rogues of all parties to overrule the good men of all parties, and to promote projects which wise men of every description will disapprove. These things are to be inferred with moral certainty from the character of the man. Every step in his career proves that he has formed himself on the model of Catiline, and he is too cold-blooded and determined a conspirator to change his plan."

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Subsequent events sufficiently proved Hamilton's just appreciation of Burr's character; but his warning voice, though he wrote similar letters to others besides Wolcott, was not listened to. Personal collisions with Burr in the party contests of New York were supposed to have created in his mind undue prejudices. In a private consultation among themselves, a majority of the Federal members in Congress resolved on an effort to elect Burr, and in this decision the majority acquiesced. There were some so rash and violent, and so obstinately prejudiced against Jefferson, as to advocate his exclusion, even though the offices of president and vice-president should remain unfilled, thus exposing the whole Federal system to dissolution. Such ideas, rashly thrown out by a few, met, however, with little countenance, and, perhaps, were not seriously entertained by any. On the other hand, Bayard, Morris, Craik, and Baer, four out of the six Federal members, any one of whom might, at any time, by his single voice, decide the election in Jefferson's favor, came to a mutual resolution that the attempt to exclude him, after its feasibility had been fairly tested, should not be carried beyond a certain point.

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Before meeting the Senate to count the electoral votes, the House resolved—with the intent, according to John Randolph, to starve or worry the doubtful members into voting for Burr, though it might be easy to conjecture a more justifiable reason—that in case no candidate should have a majority of electoral votes, they would forthwith return to their own chamber, and there continue in session, without proceeding to any other business, till a president should be chosen. Seats were to be provided on the floor for the president and the senators; but during the act of balloting, the galleries were to be cleared and the doors closed. Questions of order that might arise were to be decided without debate, the House voting by states.

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Upon the first ballot, eight states voted for Jefferson, including all those south of New England except Delaware, Maryland, and South Carolina. The four maritime New England States, with Delaware and South Carolina, voted for Burr; Vermont and Maryland were divided. Two or three members were so sick as to be brought to the House on their beds. Twenty-nine ballots were had at longer or shorter intervals, occupying the House till the next day at noon—all with the same result. The House remained in session, nominally without adjournment, for seven days; but, after sitting out the first night, the resolution not to adjourn was substantially evaded by substituting a recess. During the next four days the actual sessions were very short, only five ballotings being had.

Ample time had been allowed to Burr to bring over, if he could, any of the opposition votes; and that offers on both sides had been made to the doubtful members, subsequent developments left little doubt. A part of the evils which Hamilton had anticipated began already to

to be felt. The public mind was much agitated by the delay. Rumors had been and continued to be circulated, charging the Federalists with the most desperate and revolutionary intentions. Jefferson himself, in the highest state of nervous agitation, wrote to Monroe that nothing but threats on the part of the opposition that the Middle States would rise in arms, and call a convention for framing a new Constitution, prevented the Federalists from passing an act to vest the executive authority, in default of any election of president, in the chief justice or some other high officer. Had Congress been sitting in Philadelphia instead of Washington, it would have run no small risk of being invaded by a mob.

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Thinking that the time had arrived for terminating the struggle—in the exercise of a discretion intrusted to him by the other three Federalists with whom he cooperated—Bayard called a general meeting of the Federal members; and, though some were still very reluctant to yield, it was finally agreed that Burr had no chance, and that Jefferson must be chosen.

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But the Federalists did not surrender entirely at discretion, nor without something like an approach to terms. Application had been made by Dayton and Parker to Smith of Maryland, who was intimate with Jefferson, and lived in the same house with him, to ascertain his intentions as to the public debt, commerce, and the navy. Bayard had also applied to Smith, not only as to these points, but also touching removals from office. As to the public debt, commerce, and the navy, Smith, so he said, had frequently heard Jefferson express his opinions, and he gave satisfactory assurances that no serious changes of policy would be attempted. As to the matter of removals from office, he promised to make inquiries, and the next day reported to Bayard that Jefferson

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Feb. 17. The thirty-fifth ballot, taken at noon, the seventh day of the protracted sitting, and the day after the Federal caucus, resulted like the former ones. On the thirty-sixth ballot, after an hour's interval, Morris, of Vermont, was absent, and the two Maryland Federalists, Craik and Baer, put in blank ballots, thus giving two more states to Jefferson, which, added to the eight that had always voted for him, made a majority. The vice-presidency, of course, devolved on Burr. Committees were appointed to inform the Senate and the president elect. To this notification Jefferson made a short reply, in which his satisfaction at the result and his entire devotion to the proper discharge of his important trust were emphatically expressed.

Jan. 26. The obnoxious Sedition Act would expire, by its own limitation, at the close of the present Congress. A bill, ordered to be brought in by the casting vote of the speaker, for the continuing that law in force, would seem to prove that its friends had been influenced in its original enactment by other motives than a mere desire to silence their opponents. Fortunately, however, for the

Feb. 21. Federalists, this bill failed, on its third reading, by a considerable majority. Even the first section of it, aimed against combinations to impede the execution of the laws, however theoretically unexceptionable, might have proved, in the hands of a violent and tyrannical government, backed by an unscrupulous majority, and in the case of unjust laws, a terrible instrument of tyranny.

Feb. 27. The District of Columbia, erected into two counties, as divided by the Potomac, was placed under the jurisdiction of a circuit court, composed of a chief justice

and two assessors; the judgment of this court to be final in criminal cases, but in civil cases, where the amount in dispute exceeded one hundred dollars in value—since increased to one thousand dollars—a writ of error to lie to the Supreme Court of the United States. By a subsequent enactment, the chief justice of the Circuit Court was made sole judge of the District Court, having a jurisdiction like that of the other Federal District Courts. All matters relating to probate of wills, administration of intestate estates, and guardianships, were made cognizable in the first instance by an Orphan's Court, composed of a single judge, with a registrar. Justices of the peace were to be appointed at the discretion of the president. Instead of providing a homogeneous code for the district, the laws of Maryland and Virginia, as they stood at that moment, were continued in force on the north and south sides of the Potomac respectively.

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As there was now every prospect of a peace with France, there seemed no longer the same necessity for keeping so many public vessels afloat. Several of those vessels, purchased for immediate use or built of unseasoned materials, were hardly proper for the service, and, upon the recommendation of the Secretary of the Navy, the president was authorized to sell all except thirteen of the largest and best, six of which were to be kept constantly in commission. All the officers were to be discharged except nine captains, thirty-six lieutenants, and a hundred and fifty midshipmen; those retained to receive only half pay except when in active service. It appeared from the report of the Secretary of the Navy that materials had been collected for the construction of the six seventy-fours, and grounds purchased or contracted for on which to build them—the sites of the

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present navy yards at Portsmouth, Boston, New York, Philadelphia, Washington, and Norfolk. The secretary pressed with great earnestness the policy of annual appropriations toward a naval force of twelve seventy-fours and twice as many heavy frigates; or, at least, of providing the materials, so that the vessels might be set up at any time. The Navy Bill, as passed, appropriated half a million toward the completion of the six seventy-fours.

A collision in the course of the session between the speaker and the reporters of Congressional debates is not unworthy of notice. At the first session of Congress, held in New York, reporters had been admitted to the floor of the House, and the debates had not only been published from day to day in the newspapers, but, at the close of the session, were collected in two octavo volumes, called the Congressional Register. These reports, however, had failed to give entire satisfaction to all the members. They had been vehemently attacked as full of misrepresentations, distortions, and omissions, by Burke of South Carolina. He had even proposed to withdraw from the reporters the privilege of the floor, and though the motion was not pressed to a vote, the reporters, in consequence of it, retired to the gallery. The revival of the question at the next session resulted in the tacit admission of a discretionary power in the speaker to admit to the floor or to the gallery such stenographers as he might think proper. The Congressional Register did not reach beyond a third volume, breaking down in the middle of the second session of the first Congress. After the removal of Congress to Philadelphia, the country was mainly indebted for reports of Congressional proceedings to the enterprise of Mr. Brown, the publisher of the Philadelphia Gazette, who employed a stenographer or two for that purpose, and from whose col-

umns the other papers mostly copied, though the more important speeches then, as now, were frequently written out by the speakers. The Aurora also gave occasional reports of its own. In 1796, a scheme was brought forward to employ a reporter as an officer of the House, at a salary of \$4000, of which Brown offered to pay a part; but this was thought exorbitant, and was not carried. After the removal to Washington, an application to the speaker by two reporters for seats on the floor was refused on the plea that no such seats could be assigned consistently with the convenience of the House. Perhaps, however, the fact that one of these applicants was editor of the National Intelligencer, and that the reports of both were intended for that new organ of the opposition, might have influenced Sedgwick's decision. The reporters then applied to the House by memorial; but the speaker was sustained by his own casting vote, and the reporters were obliged to accommodate themselves in the area outside the bar. Not long after, the editor of the Intelligencer took an opportunity to report some proceedings on a question of order in a way not very complimentary to Sedgwick's knowledge or fairness. The speaker denounced this report from his place as grossly incorrect; but the Intelligencer, notwithstanding, still insisted on its correctness; in consequence of which the speaker instructed the sergeant-at-arms to expel the editor of that paper first from the area outside the bar, and then from the gallery, to which he had retired. Though the same course had been taken with Duane, in 1797, for alleged misrepresentations which he refused to retract, this expulsion was brought before the House as a usurpation of authority. It was contended that the speaker had no right to exclude any citizen from the gallery except for disorderly conduct. A vote of

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censure was moved, but this motion was decided to be out of order, and so was got rid of. Gallatin then moved an amendment to the rules, the effect of which would have been to restore the reporter to the gallery, and to deprive the speaker of the power to remove him; but upon this motion, also, a direct vote was avoided, and by means of the previous question it received the go-by. On the subject of giving publicity to the proceedings of Congress and affording facilities to reporters, the opposition, for obvious reasons, had always taken the liberal side.

The sixth Congress terminated, late at night, on the third of March. Early the next morning, without waiting to attend the inauguration of his successor, ex-President Adams left Washington for his residence in Massachusetts, carrying with him, as the only acknowledgment of his past services, the privilege granted to Washington on his retirement from office, and afterward to his widow, and bestowed likewise on all subsequent ex-presidents and their widows, of receiving his letters free of postage for the remainder of his life. This abrupt departure, and the strict non-intercourse kept up for thirteen years between Adams and Jefferson, notwithstanding some advances, then and subsequently, on Jefferson's part—till finally the parties were reconciled by the intervention of Dr. Rush, and their common sympathy as to the second war against Great Britain—indicates, on the part of Adams, a sense of personal wrong, of the exact nature of which we possess at present no means of judging, except indeed from the charge brought against Jefferson in Adams's confidential correspondence (1804), of "a want of sincerity, and an inordinate ambition," as well as of "a mean thirst of popularity."

The ex-president retired to Braintree in a state of mind little to be envied. Delighting as he did in dis

tion, and anxious for leadership and applause, had he still remained the head and champion of the Federalists, his proud spirit might have borne up with equanimity, if not with exultation, against the hatred of the opposition, the taunts and shouts of triumph with which they greeted his retirement, and the personal responsibility to which he was held for the Alien and Sedition Laws, and every other obnoxious procedure of the past four years. But when to all this were added the curses, deeper, if not so loud, of the Essex Junto, responded to by a large part of the Federal leaders throughout the country, denouncing him as a traitor, who had sacrificed the good cause in a vain and foolish attempt to secure the votes and favor of the opposition by unworthy concessions, the ex-president's philosophy was completely overthrown. Eight years after, when time had somewhat fleshed over these wounds, they broke out afresh with new malignancy by reason of renewed attacks upon him in consequence of John Quincy Adams's abandonment of the Federal party. The celebrated Cunningham letters—a repetition, on a larger scale, of the Tench Coxe correspondence already referred to—most of which were written at that time, and from which we have already had occasion to quote, present a striking proof how the most powerful judgments become incapable of discerning the truth through the disturbing mediums of jealousy and anger, and how little of candor or justice is to be expected when hate and vindictive passions hold the pen. Even the old man's last hours, when past the verge of ninety, were disturbed by the publication, through another gross breach of confidence, of these same Cunningham letters, as a part of the electioneering machinery against John Quincy Adams's elevation to the presidency, provoking, as they did, a bitter criticism from Pickering, then, also, in extreme old age.

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To Adams's unwilling and ungraceful retirement and troublous unrest, John Jay, his compatriot and fellow-laborer in so many trying scenes for a quarter of a century, exhibited a striking contrast. Having refused to become again chief justice, and declining to be longer a candidate for the governorship of New York, considering his debt to the public discharged, though ten years younger than Adams, he simultaneously withdrew into a voluntary retirement, protracted through a still longer period, and presenting, in its peacefulness, and the universal respect which it attracted, a contrast to Adams's as strong as that between the ex-chief justice's mild but steady firmness, apparently forgetful of self, and the irritable vehemence and ever-active egotism, such marked traits in the ex-president's character.

Contemporaries, especially if engaged in the heat of political struggles, are almost always led to ascribe to trivial, temporary, and personal accidents a large part of those effects which are properly due to causes more remote, general, permanent, and inevitable. While the Essex Junto imputed to Adams the downfall of Federal ascendancy, he bitterly retorted by imputing to their intrigues to defeat him, not that defeat only, but the ruin of the party also.

It was not, however, the unfortunate divisions among themselves—and, though mere party politicians then and since may have thought so—it was not the Alien and Sedition Laws, the surrender of the pretended Jonathan Robbins, the additional army, the large naval expenditures, the eight per cent. loan, and the direct tax, the collection of which was going on during the presidential canvass on the one hand, nor, on the other, the renewal of negotiations with France, that really lost to the Federalists the administration of the government. Those

measures might, and no doubt did, contribute to determine the precise moment of that event; but, under any circumstances, it could not have been long deferred.

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From the first moment that party lines had been distinctly drawn, the opposition had possessed a numerical majority, against which nothing but the superior energy, intelligence, and practical skill of the Federalists, backed by the great and venerable name and towering influence of Washington, had enabled them to maintain for eight years past an arduous and doubtful struggle. The Federal party, with Washington and Hamilton at its head, represented the experience, the prudence, the practical wisdom, the discipline, the conservative reason and instincts of the country. The opposition, headed by Jefferson, expressed its hopes, wishes, theories, many of them enthusiastic and impracticable, more especially its passions, its sympathies and antipathies, its impatience of restraint. The Federalists had their strength in those narrow districts where a concentrated population had produced and contributed to maintain that complexity of institutions and that reverence for social order, which, in proportion as men are brought into contiguity, become more absolutely necessities of existence. The ultra democratical ideas of the opposition prevailed in all that more extensive region in which the dispersion of population, and the despotic authority vested in individuals over families of slaves, kept society in a state of immaturity, and made legal restraints the more irksome in proportion as their necessity was the less felt. Massachusetts and Connecticut stood at the head of the one party, supported, though not always without some wavering, by the rest of New England. The other party was led by Virginia, by whose finger all the states south and west of the Potomac might be considered to be

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It would seem, of those ministers by whom the nation had been provoked. On the other hand, they were obliged to oppose that ardent zeal for France which was combined with gratitude for French assistance and enthusiasm for liberty combined to inspire. During the last six years of Washington's administration, there had always been in the House a majority against him; while the President's casting vote in the Senate had often been used to secure a majority even there. On Washington's retirement, Jefferson had been kept out of the succession only by two chance votes, given for Adams as well as for him, in the decidedly anti-Federal states of Virginia and North Carolina. It so happened, indeed, during Adams's administration, that all the doubtful votes were represented by senators of the Federal party, thus giving to the Federalists, for the first time, the control in that body. Adams's spirited resistance to the insults of France, by kindling a flash of patriotic Federalism in the Southern States, which glimmered, however, only to expire again, secured, also, the first and last House of Representatives in which the Federalists had a decided majority. But upon Pennsylvania and New York, even patriotism itself, invoked to stand up against French insolence, produced little or no effect, while the indefatigable and unscrupulous ambition of McKean in the one state, and of Burr in the other, seconded as Burr was by the influence of the Clintons and the wealth of the Livingstons, precipitated that inevitable triumph of the opposition which nothing could very long have delayed. The Federal party, never strong, expired at last by reason of that exhaustion, the natural result, by the laws of reaction, of extraordinary efforts to arouse and prepare the country to resist the aggressions of France. The party for a moment rose majestic,

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guided. The only exception was South Carolina, in the tide-water district of which state a certain number of the wealthier and more intelligent planters, led by a few men of talents and probity who had received their education in England, were inclined to support the Federal policy, so ably upheld in Congress by Smith, Harper, Pinckney and Rutledge. But even in South Carolina the mass of the voting population felt and thought otherwise; nor could the influence of a few individuals long resist a numerical preponderancy so decided. As for the states of Georgia, Tennessee, and Kentucky, and except for a brief moment, North Carolina, they followed without doubt or hesitation in the wake of Virginia; and the rapidly-increasing backwoods settlements of all these states constantly added new strength to the opposition. Of the five states intervening between Virginia and New England, little Delaware alone adhered with unflinching firmness to the Federal side. Maryland and New Jersey, though wavering and undecided, inclined also the same way. The decision between Federalism and the so-called Republican party, depended on the two great and growing states of Pennsylvania and New York; and from the very fact that they were growing, that both of them had an extensive backwoods frontier, and that both were constantly receiving accessions of political enthusiasts from Europe, they both inclined more and more to the Republican side.

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Scarcely a session of Congress had passed that some new expense had not been authorized and some new tax imposed. A just regard to the welfare of the country had obliged Washington and the Federalists to throw themselves into the gap against the national hatred of England kindled in the Revolutionary war and aggravated since by new aggressions and insolence, in the very

spirit, it would seem, of those ministers by whom the Revolution had been provoked. On the other hand, they had been obliged to oppose that ardent zeal for France which gratitude for French assistance and enthusiasm for liberty combined to inspire. During the last six years of Washington's administration, there had always been in the House a majority against him; while the vice-president's casting vote in the Senate had often been needed to secure a majority even there. On Washington's retirement, Jefferson had been kept out of the succession only by two chance votes, given for Adams as well as for him, in the decidedly anti-Federal states of Virginia and North Carolina. It so happened, indeed, during Adams's administration, that all the doubtful states were represented by senators of the Federal party, thus giving to the Federalists, for the first time, the certain control in that body. Adams's spirited resistance to the insults of France, by kindling a flash of patriotic Federalism in the Southern States, which glimmered, however, only to expire again, secured, also, the first and last House of Representatives in which the Federalists had a decided majority. But upon Pennsylvania and New York, even patriotism itself, invoked to stand up against French insolence, produced little or no effect, while the indefatigable and unscrupulous ambition of M'Kean in the one state, and of Burr in the other, seconded as Burr was by the influence of the Clintons and the wealth of the Livingstons, precipitated that inevitable triumph of the opposition which nothing could very long have delayed. The Federal party, never strong, expired at last by reason of that exhaustion, the natural result, by the laws of reaction, of extraordinary efforts to arouse and prepare the country to resist the aggressions of France. The party for a moment rose majestic,

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as if with new strength, trampling under foot those who hesitated to vindicate their country's honor and independence. But this very effort exhausted and destroyed it. It was in vain that Adams sought to avert the effect by renewing, at the earliest possible moment consistent with the honor of the country, pacific relations with France. The force of the party had been expended in the desperate effort to repel French insolence, and there was not now vitality enough left effectually to resist the opponents, who rose dexterously out of the dust in which they had been trodden, and, as if refreshed by the humiliation, re-entered the contest with new vigor.

But though the Federal party thus fell never to rise again, it left behind it permanent monuments. The whole machinery of the Federal government, as it now operates, must be considered as their work. With every individual part of that machinery, as those parts were successively brought into operation, the opposition, first as anti-Federalists, then as Republicans, and then as Democrats—for so the more ultra began now to call themselves—had found most critical and pertinacious fault. We shall soon see how, themselves in power, notwithstanding all their former criticisms, they at once adopted, without essential change, the greater part of this very machinery, and how they were ultimately driven again to restore, with hardly an exception, all those portions of it with which, in conformity to their own theories, they had at first attempted to dispense. testimony as irrefragable as it was reluctant, that however the so-called Republican leaders might excel the Federalists in the arts of popularity, the best thing they could do, in the constructive part of politics, was humbly to copy the models they had once calumniated.

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INAUGURATION OF JEFFERSON. STATE ELECTIONS. APPOINTMENTS AND REMOVALS. HOSTILITIES WITH TRIPOLI. SEVENTH CONGRESS. CENSUS AND APPORTIONMENT. RETRENCHMENTS. REPEAL OF THE JUDICIARY ACT. TERRITORIES. CESSION OF LOUISIANA TO FRANCE. CALLENDER. JEFFERSON AND THE CLERGY. REPUBLICAN DIVISIONS IN NEW YORK. SECOND SESSION OF THE SEVENTH CONGRESS. STATE OF OHIO.

JEFFERSON had reached the presidential chair at a most fortunate moment. The storm which, four years before, had threatened so alarmingly as to make him willing to shrink into the position, comparatively obscure, but free from all responsibility, of vice-president, had now quite blown over. The prospect of a speedy peace in Europe promised effectual and permanent relief from those serious embarrassments to which, during war on the ocean, American commerce was ever exposed from the aggressions of one or of all the belligerents. The treasury was fuller, the revenue more abundant than at any previous period. Commerce was flourishing, and the pecuniary prosperity of the country was very great. All the responsibility of framing institutions, laying taxes, and providing for debts, had fallen on the ousted administration. Succeeding to the powers and the means of the Federal government without sharing any of the unpopularity at the expense of which they had been attained, and ambitious not so much of a splendid as of a quiet and popular administration, the new president seemed to have before him a plain and easy path.

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Among other Federal pomps, Jefferson had condemned with strong emphasis, as savoring of monarchy, any public ceremony at the swearing in of the president. 1801. Yet, on the morning of his accession to office, not to disappoint the multitude of his friends and partisans who had assembled to pay him honors, and, perhaps, now that his own turn had come, looking at the matter in a somewhat different light, escorted by a body of militia and a procession of citizens, he proceeded to the Capitol, where the Senate had met in special session in obedience to a call issued by Adams some weeks before. Burr, already sworn in as vice-president, gave up the chair to Jefferson, taking a seat at his right hand. On his left sat Chief-justice Marshall, ready to administer the oath of office. The chamber was well filled, a large number of the members of the late House being present, to which body, just before its adjournment, Jefferson had sent notice of his intended public inauguration. But the absence of the late speaker, as well as of the late president, did not fail to excite remark.

Before taking the oath, Jefferson delivered an inaugural address, a piece of studied and very elaborate composition, in many points strongly characteristic of its author. Elevated at last to the height of his political ambition, he seemed anxious to quell the rage of that political storm on the wings of which he had ridden into office. Desirous to still the heavings of that "tempestuous sea of liberty," on which, as a member of the opposition, he had navigated so adventurously, he warmly urged the restoration of that "harmony and affection," without which, as he had now discovered, "liberty and even life itself are but dreary things." "Every difference of opinion," so he suggested, "is not a difference of principle. Brethren of the same principle, we

are called by different names. We are all Republicans, we are all Federalists." He announced as the sum of good government "a wise frugality, which does not take from the mouth of labor the bread it has earned, and which, restraining men from injuring one another, leaves them otherwise free to regulate their own pursuits;" a paraphrase of the favorite idea of his party, that the goodness of government is in proportion to the smallness of its quantity. Yet, in descending to particulars, he did not avoid the gross inconsistency of enumerating as "essential principles of government," not only "the arraignment of all abuses at the bar of public opinion," but "the diffusion of information," and the "encouragement of agriculture and of commerce as its handmaid." The Federalists having accused him of hostility to the Federal Constitution, undue partiality for France, and of doctrines which tended to a repudiation of the public debt, he added to his list of essentials "the preservation of the Federal government in its whole constitutional vigor;" "peace, commerce, and honest friendship with all nations, entangling alliances with none;" and "the prompt payment of our debts, and sacred preservation of the public faith."

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Simultaneously with the removal of the public offices to Washington, two newspapers, the National Intelligencer and the Washington Federalist, had been established there; of which the former became, as it was originally intended to be, the official organ of the new administration. The editor, selected probably by Jefferson, was Samuel Harrison Smith, who had formerly published at Philadelphia the Universal Gazette, a miscellaneous journal of some pretensions. The new organ, subsequently known among the Federalists as the "national smoothing-plane," affected an almost prudish regard to

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decency and correctness of statement—qualities in which all its Republican predecessors had been sadly deficient; and so far the comparison was much in its favor. But in point of spirit and talent it fell far short of the old organ, the *Aurora*, by which its editor was presently spoken of with some contempt as “silky, milky Smith”—epithets, like that employed by the Federalists, descriptive enough of the ever-ready adulation with which all the acts of the administration and its supporters were somewhat nauseously glossed over. Toward the Federalists, however, very little either of milkiness or of silkiness was displayed. The long, formal, pedantic disquisitions in which the editor delighted to indulge, exhibited, indeed, a cold, clammy, political rancor, altogether more detestable and less easy to forgive than the passionate hate and vindictive malice of the *Aurora*.

How Jefferson would fill up the executive departments had been a matter of a good deal of curiosity to the Federalists. Fitzsimmons had insisted, in a letter to Wolcott, that there were not among the Republicans men of sufficient talents and activity to carry out their own plans, and he repeated, as corresponding with his own experience, a saying of Steuben’s, that he had known but two persons in Virginia fit to execute public business. In fact, all the appointments requiring much industry or labor were given to Northern men. To the offices of Secretary of State, Secretary of the Treasury, and Attorney General, left vacant by the resignation of the late incumbents, Jefferson nominated James Madison, Henry Dearborn, and Levi Lincoln, the latter an early leader of the opposition in Massachusetts, who had taken a seat in Congress just prior to the close of the late session, having been chosen, after a warmly-contested election, to fill a vacancy in the Worcester district. The

March 5.

Senate still containing, as it did, of the members present a majority of Federalists, Jefferson did not think proper to make any further cabinet nominations; but, soon after the adjournment, he appointed as Secretary of the Treasury, Albert Gallatin, all along the financial member of the opposition, and who had come out, pending the presidential canvass, with a new pamphlet, in which he had undertaken to show an alarming increase of debt and expenditure. The Navy Department, refused by Chancellor Livingston, who having reached the age of sixty, had been obliged, under a Constitutional provision, to vacate the chancellorship of New York, was given to Robert Smith, brother of the Baltimore member of Congress. Livingston, however, consented to accept the embassy to France, to which he was nominated and confirmed previous to the adjournment of the Senate; but he did not embark till after the ratifications of the late convention had been exchanged. Meanwhile Dawson, one of the Virginia members of Congress, familiarly known as "Beau Dawson," was dispatched to France in the sloop of war Maryland with the amended convention. He also carried a very gracious letter from Jefferson to Thomas Paine, offering him a passage to America on the return of the Maryland—a security against British capture which Paine had for some time been anxious to get. Shortly after Dawson's departure, Pichon, already well known to us as secretary of the French legation at the Hague, arrived at Washington as French chargé des affaires.

Habersham was continued as post-master general for some six months, under an injunction to employ "no printer, foreigner, or Revolutionary Tory in any of his offices;" but he presently gave way to Gideon Granger, a leader of the Connecticut Republicans, who had of late begun to show, for the first time, some decided signs of

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activity, and whom it was thought specially necessary to encourage and reward.

1801. With the change in the administration of the Federal government, a change not less important and not less decided took place in the hitherto doubtful and contested states, thus greatly strengthening the hands of Jefferson and his cabinet.

The triumph of the Republicans in the New York state election of 1800 had given them a majority in the Council of Appointment; and Jay, unable otherwise to withstand the claim on their part to appoint to offices independently of his nomination, had been obliged to adjourn the council, thus leaving the offices unfilled. At April. the ensuing gubernatorial election, George Clinton, again the Republican candidate, was chosen over Van Rensselaer, and the Federalists of New York were reduced to nearly the same insignificance as those of Pennsylvania.

Oct. A convention, called to settle the question as to the powers of the Council of Appointment, of which Burr was the president, decided, against the letter of the Constitution and the opinion of Governors Clinton and Jay, to reduce the governor to a mere fifth member of the council, with no greater power than any other member, except the right to preside. By this same convention, the number of senators, which under the provisions of the Constitution had increased from twenty-four to forty-three, was fixed at thirty-six. Among the members of

July. the council in office at Clinton's accession, the same whose proceedings Jay had stopped by adjournment, was De Witt Clinton, the governor's nephew, also Ambrose Spencer, down to the end of the year 1799 a warm Federalist, but now just as warm a Republican, both very able and ambitious young men, and afterward greatly distinguished in the politics of New York. Be

fore the decision of the convention, and in spite of the governor's protests, they had already commenced, with the help of a third Republican member, a system of removals and appointments similar to that introduced by M'Kean into the politics of Pennsylvania. Nor was this proscription confined to Federalists merely. Already a furious struggle had commenced between the Clintons and the Livingstons on the one hand, and Burr and his partisans on the other, which soon began to be carried on with the utmost bitterness. The friends and partisans of Burr were excluded from office not less scrupulously than Federalists, the appointments being made exclusively from those belonging to the Clinton and Livingston factions. But in this distribution the Livingstons came in for the lion's share. Not to mention inferior posts, the bench of the Supreme Court was mainly in their hands. The chancellorship having been given to Lansing, Morgan Lewis, connected by marriage with the Livingstons, was made chief justice, having for colleagues Brockholst Livingston and Smith Thompson, the latter also connected by marriage with the Livingston family.

The New Jersey Federalists, having the control of the state Legislature, had adopted a general ticket system of choosing representatives to Congress, expecting to secure a delegation entirely Federal; but the election had resulted in the triumph of the Democratic ticket by from five hundred to a thousand majority out of 29,000 votes. The state election, some nine months after, gave to the same party a majority in both branches of the Legislature, and secured the election of Joseph Bloomfield, the Republican candidate for governor. The Republicans had triumphed, also, in Maryland, obtaining a sufficient majority in the House to overcome the Federal majority

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in the Senate, and to elect John F. Mercer as governor; and they soon succeeded in obtaining a majority in the Senate also. The election of representatives to Congress resulted in the choice of five Republicans and three Federalists. From Virginia only a single Federalist was elected to Congress. That party lost also, though not so badly, in the two Carolinas. Georgia, of course, went back to the Republicans; and the election of David Hall, the Republican candidate for governor in the State of Delaware, left the Federalists neither governor nor Legislature out of New England, the Legislature of Delaware alone excepted. Even in New England, Rhode Island was lost, the election having resulted in the choice of Republican members of Congress, and also of a Republican General Assembly. Vermont was exceedingly doubtful, while Massachusetts seemed to be shaken. Strong, indeed, was rechosen governor; but the Republican ticket triumphed in Boston; and out of the fourteen representatives to Congress five Republicans were chosen, including Eustis from the Boston District.

But while thus triumphant throughout the states, a somewhat troublesome subject pressed upon the new administration—the conduct to be observed respecting removals from office. The more violent partisans wished Jefferson to make a clean sweep of all his opponents. Feb. 20. M'Kean very early gave him a pointed hint on that head. Jefferson, as well as his partisans, had been exceedingly annoyed by the pertinacity of Adams in proceeding to fill up all vacancies, down to the very close of his administration; and a great clamor had been raised against these “midnight appointments,” as, by a somewhat free figure of speech, they were called. Yet to adopt the proscriptive system of Pennsylvania and New York would not only give the lie to opinions expressed

previously to his election, under circumstances which gave to that expression a near approach to a positive pledge; it would also be contrary to Jefferson's policy of conciliating the more moderate Federalists, who would hardly fail to consider such removals, if made for no other cause than political opinions, as but instances of that very "political intolerance" against which he had so energetically protested in his inaugural address.

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There were some cases, however, as to which no scruples were felt. In accordance with the Republican scheme of economy, especially in the matter of foreign intercourse, Murray, Smith, and John Q. Adams, the ministers to Holland, Portugal, and Prussia, were recalled, without the appointment of any successors. Humphreys was recalled from Spain, on account, as the letter of recall informed him, of long absence from the United States, and Charles Pinckney, the exceedingly embarrassed state of whose pecuniary affairs made some such office very convenient, was appointed in his room. Skipwith, Monroe's protégé, was named commercial agent at Paris, and a corresponding restoration was made of the other French consuls displaced by Adams. Winthrop Sargent, whose term of office as governor of the Mississippi Territory had expired, was superseded, contrary to an express promise made to him, as he alleged, by C. C. Claiborne, late representative from Tennessee; merely, as the president averred, for the sake of peace, and without intending at all to sustain the charges urged against Sargent at the last session of Congress, of having extorted illegal fees, and of having usurped, in conjunction with the judges, an unwarrantable legislative authority. But other and more special reasons were afterward suggested as having occasioned Claiborne's appointment.

The Federal attorneys and marshals of the United

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States courts were mostly replaced by Republicans. Alexander J. Dallas and Edward Livingston were both thus richly provided for, the one as attorney for the Eastern District of Pennsylvania, the other as attorney for the Southern District of New York. Livingston had already been rewarded at home by the still more lucrative office of mayor of the city of New York, a post at that time not elective, but in the gift of the Council of Appointment, including among its duties that of chief judge for the city, and enjoying a revenue from fees said to amount to \$10,000 a year.

Dallas was also very desirous to hold, in conjunction with his office of United States district attorney, that of recorder of the city of Philadelphia, given to him by Governor M'Kean. It had been one of Dallas's first official acts to discontinue, by the president's order, the prosecution instituted against Duane, at the request of the Senate of the United States, for a libel on that body. But this did not prevent Duane from attacking, with a good deal of severity, the anti-Republican conjunction, in the person of Dallas, of two lucrative offices, state and national; and, finally, Dallas was obliged to resign his recordership, by a special act of the Legislature to that effect, passed in spite of the governor's veto.

Duane himself was presently admitted to a share of pecuniary emolument by a contract given to him for the public printing, and for supplying the public offices with stationery.

In a number of cases, including some judicial offices, though Adams's appointments had been confirmed, the commissions had not yet issued when his term expired. In these cases the commissions were withheld, and new appointments were made. The legality of this proceeding, even in the case of judicial appointments, was sub

sequently sustained by the Supreme Court, on a process of mandamus sued out against the Secretary of State to compel him to issue commissions to certain persons nominated by Adams and confirmed by the Senate as justices of the peace for the District of Columbia. But, notwithstanding this decision, Jefferson was greatly outraged that the court should have presumed even to entertain such a suit.

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All this was quietly submitted to as a matter of course, but some removals and appointments of officers of the customs and excise raised a loud clamor on the part of the Federalists. One of the most noticeable of these cases was the removal of Elizur Goodrich, lately a representative in Congress from Connecticut, who had resigned his seat to accept the office of collector of New Haven. In his place was appointed Samuel Bishop, a respectable old man of seventy-seven, but so nearly blind that he could hardly write his name, and with no particular qualifications for the office, or claim to it, except being the father of one Abraham Bishop, a young Democrat, a lawyer without practice, for whom the appointment was really intended. The claims of the younger Bishop consisted in two political orations which he had recently delivered, one of them by a sort of surprise, before a literary society of Yale College—an occasion upon which all the dignitaries of the state were collected. This was a vehement, flippant, but excessively shallow declamation, yet suited to alarm the popular mind, the burden of it being that by commercial, military, clerical, and legal delusions, a monarchy and aristocracy were just on the point of being saddled on the country. To this oration, already in print before it had been delivered, and which was at once distributed as an electioneering document (the choice of presidential electors being

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then about to take place), Noah Webster had immediately published a cutting reply, entitled, "A Rod for the Fool's Back." The younger Bishop's second oration, delivered at a festival to celebrate the Republican triumph, was a parallel drawn at great length, between Jefferson and Jesus Christ, "the illustrious chief who, once insulted, now presides over the Union, and Him who, once insulted, now presides over the universe."

To a remonstrance against this removal and appointment, made by the merchants of New Haven, who quoted the inaugural promise "to promote the general welfare, without regarding the distinctions of party," the

July 12. president replied, that the example of Franklin, still an ornament to human nature, when past the age of the new collector, as well as the offices of town clerk, justice of the peace, mayor of New Haven, and chief judge of the Common Pleas for that county, held by Bishop at the time of his appointment, furnished abundant proof of his ability, notwithstanding his age, to perform, with such assistance as he might see fit to employ, the duties of his office. As to Goodrich, he was displaced, to be sure, but it could not properly be called a removal, for he ought not to have accepted the office, not knowing if those whose agent he was to be would have confidence in him. Besides, the Federalists had all the offices; while a due participation in office by those who now constituted a majority of the nation was no more than a matter of right. Few died, and none resigned; and how could this participation be brought about except by removal. That was a painful duty, in which he should proceed with deliberation and inquiry, so as to inflict the least private distress, and to throw, as far as possible, such as could not be avoided, on delinquency, oppress-

ion, intolerance, and anti-Revolutionary adherence to Great Britain. CHAPTER
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This, however, did not satisfy. The Federalists enumerated with emphasis an Aquila Giles, marshal of the Eastern District of New York ; a Joshua Sands, collector of that port ; a James Watson, navy agent ; a Nicholas Fish, supervisor for New York of the internal revenue ; and a Henry Miller, supervisor for Pennsylvania, all of them meritorious officers of the Revolution, and falling within none of Jefferson's rules, yet all removed to make room for political partisans, in one case for an old Tory. To these complaints the partisans of Jefferson replied, that out of two hundred and twenty-eight attorneys, marshals, supervisors, collectors, naval officers, and surveyors, appointments held at the pleasure of the president, one hundred and ninety-eight were still in the hands of the Federalists ; and to these might be added the subordinate stations in the executive departments, in which few changes had been made, partly from the difficulty of finding Republicans competent to fill them—a large proportion of the active men on that side being better at declamation than at business. Besides the above-mentioned offices in the gift of the president, there were about a thousand deputy post-masters, but only a few of these post-masterships were lucrative enough to make them objects of desire. 1801.

Jefferson had been greatly alarmed lest the presidential levees introduced by Washington might imperceptibly lead to the ceremonies of a court, if not, indeed, to monarchy itself. He, therefore, solemnly announced, in a letter to Macon, that for the future there were to be no more levees. The removal of the seat of government to Washington, then a little village in the midst of the woods, and the fact, also, that Jefferson was a May 14.

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widower, were favorable to that ultra Republican simplicity which he sought to introduce. What occasion for levees in such a wilderness, where nobody came except on public business? Eight years after, Mrs. Madison revived a usage exceedingly convenient, and ever since continued.

Another change announced also in the same letter, from the alarming monarchical style of the former administrations, was the disuse of speeches and answers at the opening of the session, and the substitution of a written message, to be sent in manuscript and read by the clerk, to which no special answer would be expected; a change to which Jefferson was perhaps the more inclined, at least so the Federalists maliciously suggested, by reason of his tall, ungainly figure, comparing but ill with Washington's or Adams's, and his total destitution of gifts as a public speaker. The change thus introduced has not only been retained, but has been gradually copied in most of the states; one cause perhaps of that intolerable prolixity into which executive communications have tended more and more to run.

Nov 5.

But while thus giving up the forms, Jefferson clung with instinctive tenacity to the substance of power. A circular addressed to his cabinet ministers, though filled with flattering declarations of "unlimited, unqualified, and unabated confidence," very plainly evinced that the new president had no intention to tolerate any of the pretensions set up by Adams's ministers, or to allow the government to be parceled out, as he expressed it, among four independent heads, drawing sometimes in opposite directions. Deferring for once to the example of Washington, he very properly claimed, since the people had imposed the responsibility upon him, the unrestrained right of final decision.

Though the late administrations had been forced into the purchase of treaties of peace with the Barbary powers mainly by the clamor of the opposition, who dreaded the expense of coercion, yet the large sum expended in presents (near two millions of dollars) had formed a favorite topic of electioneering declamation, more especially as it had not entirely answered its purpose. The treaty with Tripoli, the last of the series, had been purchased by the payment of a gross sum down. But the Bey, when he compared his case with that of Algiers, naturally grew dissatisfied with this arrangement; and on various pretenses of quarrel, he threatened war against the United States. The building of national ships had first been commenced for the restraint of the Barbary pirates; and one of Jefferson's first acts was to dispatch Commodore Dale, with four out of the six vessels still retained in commission, to watch the proceedings of the Bey, and, if necessary, to repel hostilities.

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The insolence of these piratical states, fostered by an almost unaccountable submission to their pretensions by the Christian nations of Europe, had been strikingly exhibited in the conduct of the Dey of Algiers toward Captain Bainbridge, on his arrival there in the frigate *George Washington* with the annual tribute. The frigate which came to anchor under the guns of the castle, and which could hardly attempt to depart without danger of destruction, was pressed into the Dey's service for the purpose of carrying presents and an ambassador to Constantinople, under threats, in case of refusal, of an immediate renewal of hostilities against the United States. To Bainbridge's remonstrances and those of the consul O'Brien, the Dey replied, "You pay me tribute, by which you become my slaves, and therefore I have a right to order you as I think proper." All the tributary nations

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1800. of Europe submitted, so he added, to render him like services. "I hope," wrote Bainbridge, in his account of this matter to the Navy Department, "I shall never again be sent to Algiers with tribute, unless I am authorized to deliver it from the mouth of our cannon." Under the advice of O'Brien, and understanding that English, French, and Spanish ships of war had submitted to the same thing, Bainbridge at last yielded to the Dey's demands, and his ship was the first to display the American flag—though not under the most agreeable circumstances—before the ancient city of Constantinople. The Turkish officers had never heard of the United States, but when, at length, they were made to understand that Bainbridge came from the New Western World which Columbus had discovered, he was received with great courtesy. Indeed, the sultan drew omens especially favorable to the future friendship of the two nations from the fact that the American flag was emblazoned with the stars and his with the crescent, indicative, as he imagined, of a certain similarity in their institutions. With
1801. the Capudan Pasha, the Turkish admiral, Bainbridge became a great favorite, and received from him a firman, which, on his return to Algiers, protected him from any further insolences on the part of the Dey, and enabled him to render essential services to the French residents, exposed to great danger by a declaration of war by Algiers against France. The pasha was anxious that an American ambassador should be sent to Constantinople, and a treaty made; but the recall of Smith, the minister to Portugal, who held also a commission to treat with the Porte, prevented any thing being done.
- July. Dale, on arriving at Gibraltar, found two Tripolitan cruisers lying there, on the watch for American vessels, the Bey having already declared war. These were block-

aded by the Philadelphia frigate, while Bainbridge, who now commanded the Essex frigate, was employed in giving convoy to the American Mediterranean trade. Dale himself sailed in the President, followed by the schooner Experiment, to cruise off Tripoli. The Experiment, on her passage thither, fell in with, and, after three hours' hard fighting, captured a Tripolitan cruiser of fourteen guns. The prize had twenty killed and thirty wounded, while the Experiment lost not a man. As there was yet no formal declaration of war against Tripoli, the captured vessel was dismissed with the survivors of the crew, being first completely dismantled, her masts cut away, and her guns thrown overboard. The appearance of Dale's squadron in the Mediterranean was very seasonable; for already Algiers and Tunis, as well as Tripoli, were demanding additional presents.

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The ~~seventh~~ Congress, on coming together, showed a decided administration majority in both branches. The Senate stood eighteen administration members to fourteen Federalists; the House, thirty-six Federalists to sixty-nine for the administration. On the administration side in the Senate there were, of former members of note, Wilson Cary Nicholas and Baldwin; of new members, John Armstrong, of New York, the author of the Newburg letters, and brother-in-law of Chancellor Livingston, but who resigned his seat before the end of the session, and was succeeded by De Witt Clinton; Dr. Logan, of Pennsylvania; Sumter, of South Carolina; Jackson of Georgia, an active member of the first and the third Congress, lately governor of that state, where he had been succeeded by Josiah Tatnall; and John Breckenridge, of Kentucky. On the Federal side were Chipman, of Vermont; Dwight Foster and Jonathan Mason, of Massachusetts, who had taken their seats dur-

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ing the last Congress as successors to Dexter and Goodhue; Tracy and Hillhouse, of Connecticut; Foster, of Rhode Island; Gouverneur Morris, of New York; Dayton, of New Jersey; Ross, of Pennsylvania; and Willes, of Delaware. Of the new members only three were Federalists, Samuel White, of Delaware, and James Sheafe and Simeon Olcott, of New Hampshire, in place of Livermore, who had resigned, and of Langdon whose term had expired. Langdon had long been the only Republican senator for New England, but his single vote was now replaced by those of Bradley, of Vermont, and Ellery, of Rhode Island.

In the House, on the administration side, there were, of former members, Varnum, of Massachusetts; Gregg, Smilie, and Leib, of Pennsylvania; Smith and Nicholson, of Maryland; Macon, of North Carolina; Giles, again re-elected after an interval of one Congress, and John Randolph, of Virginia. Among the new members on the same side were Dr. William Eustis, representing the Boston District, and Dr. Samuel L. Mitchell, a better chemist than politician, from the city of New York. The Federalists had, of old members who had made themselves known, Griswold, Dana, Davenport, and John Cotton Smith, of Connecticut; Bayard, of Delaware; John Stanley, of North Carolina; and Rutledge and Thomas Lowndes, of South Carolina. Of the new members, there were few on that side, and none of them distinguished. Thacher, of Massachusetts, a member during the whole of the two preceding administrations, and remarkable for his zeal against slavery, had accepted a seat on the Massachusetts Supreme bench, where he found his late colleague Sewall, and was soon joined by Sedgwick. Of the leading members of former Congresses, Hartley, of Pennsylvania, was lately dead; Peter

Muhlenburg had received office as supervisor for Pennsylvania; John Nicholas had removed from Virginia to Western New York, and henceforth disappears from the political arena; Harper, the late Federal leader in the House, had married a daughter of John Carroll, of Carrollton, and had removed from South Carolina to Maryland.

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Macon was chosen speaker by fifty-three votes to twenty-six for Bayard. Bexley, the old Republican clerk, whom the Federalists had ousted, was reinstated by a similar vote. The House met in a room, temporarily fitted up, in the basement of the south wing of the Capitol then in progress of erection. By an addition to the rules, reporters were henceforth to be entitled to seats within the bar, to be assigned to them by the speaker. The Senate now, also, for the first time, and against the vote of all the Federal members, admitted a stenographer on their floor; but years were yet to elapse before any connected reports of their debates were published. John Randolph, appointed chairman of the Committee of Ways and Means, and whose fluency, promptitude of retort, and acrimonious wit, though without method or logical order, made him a formidable debater, became leader for the administration. Griswold and Bayard were leaders on the part of the Federalists.

The president's message, after congratulations on the peace in Europe and the quiet on the frontiers, and a statement as to the existing hostilities with Tripoli, adverted to the reduction of expenditure already made by disbanding a part of the marine corps, by curtailing the diplomatic establishment, and by a reduction in the number of officers employed in collecting the internal revenue. The army, the navy, the fortifications in progress, and the Federal offices generally, were pointed out as

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fit subjects for further retrenchments, necessary in order to justify a repeal of the internal taxes. The new judiciary system was also mentioned as a subject which, of course, would attract attention. A modification was recommended in the Naturalization Law, favorable to foreigners seeking to become citizens.

One of the first subjects which engaged the attention of the House was a reapportionment of representation, in accordance with the new census recently completed. The old ratio of one representative to each thirty-three thousand in federal numbers was still retained. The result of the new census, and of the new apportionment founded upon it, will appear in the following table :

STATES.	Free Whites.	Slaves.	All others.	Totals.	Reps.
Virginia	518,674	346,968	20,507	886,149	22
Pennsylvania . .	586,278	1,706	14,564	602,548	18
New York	555,063	20,613	10,374	586,050	17
Massachusetts, } with Maine }	567,194		7,370	574,564	17
North Carolina . .	337,864	133,196	7,043	478,103	12
Maryland	221,998	167,707	19,987	349,692	9
South Carolina . .	196,259	146,151	3,181	345,591	8
Connecticut . . .	237,374	951	5,300	251,002	7
Kentucky	179,875	40,343	741	220,959	6
New Jersey . . .	194,325	12,422	4,402	211,149	6
New Hampshire . .	182,995	8	855	183,858	5
Georgia	101,068	59,699	1,919	162,686	4
Vermont	153,908		557	154,465	4
Tennessee	91,705	13,584	309	105,602	3
Rhode Island . . .	65,438	380	3,304	69,122	2
Delaware	49,852	6,153	8,268	64,273	1
Northwest Ter. (Ohio)	45,022		337	45,365	
Indiana Territory .	5,453	135	163	5,641	
Mississippi " . . .	5,289	3,489	182	8,850	
District of Columbia	10,076	3,244	783	14,093	
TOTAL	4,309,656	896,749	111,146	5,318,762	141

In conformity to the suggestions of the president, the emoluments of collectors of the customs, surveyors, and naval officers, were limited, by an act still in force, to \$5000, \$3500, and \$3000 respectively. Some other salaries were also reduced, but the late increase of pay to the cabinet officers was retained. The army reduced to the peace establishment of 1796, was to consist of three

regiments, one of artillery of twenty companies, and two of infantry of ten companies each, amounting in the whole to 3000 men. There was also retained a corps of engineers, to consist of seven officers and ten cadets, to have their head-quarters at West Point, there to constitute a military academy, under the superintendence of the senior officer, and having for students forty cadets, two being annexed to each of the twenty companies of artillery. A professor of French and drawing was afterward added ; but this paltry establishment, the superintendence of which was quite incompatible with the proper duties of the engineers, who were needed elsewhere, was very far short of the elaborate plan which M^r Henry had drawn up just before his resignation, from notes furnished by Washington, and which ultimately became the basis of the present West Point Academy.

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Under the act of the last session, the navy, by selling the supernumerary ships, had been already reduced to thirteen vessels. The appropriations for improvement and increase were limited to a quarter of a million, and the building of the six seventy-fours, for which timber had been collected, was thus brought to a stand still ; nor were they, in fact, ever completed, the timber being cut up for smaller vessels, or allowed to go to decay. The purchase of sites for navy yards by the late Secretary of the Navy was attacked by a committee of the House as having been made without authority ; and nothing saved the yards, or part of them, from being sold, except the circumstance that to remove the timber there deposited would cost more than the yards would sell for. The expenditures by the late Secretary of the Navy, under this head, for land and improvements, had amounted to about \$200,000 ; an expense which he fully justified against the cavils of the committee by reminding them

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that as Congress had directed the seventy-fours to be built, and had appropriated money for that purpose, yards must of necessity be hired or purchased, and that experience in building the frigates had proved that to purchase was altogether the cheaper. It was attempted, also, to abolish the Mint, but that did not succeed. Another small saving was made by the repeal of the late Judiciary Act, which formed, indeed, the great measure of the session. It was early brought forward by Breckenridge in the Senate, and the speeches upon it constitute the earliest reported debates of that body. Gouverneur Morris took the lead for the Federalists, and greatly distinguished himself. Before the debate was over, the greater part of the senators had spoken.

The Judiciary Act, and especially the appointments made under it, had been held up to popular odium from the moment of its passage as an unworthy maneuver, having no other object except to plunder the treasury for the benefit of the Federal leaders, ousted by the public voice from the control of the other departments of the government. Several of the state Legislatures had instructed their senators and representatives in Congress to urge the immediate repeal of the act. Returns of the business hitherto transacted by the Federal courts were moved for and obtained, from which it was argued that the late change was entirely unnecessary, especially as the Sedition Law had expired, while the proposed repeal of the internal duties, and the dimunition of suits by British creditors, would still further diminish the business of the courts.

It was maintained, on the other side, that the new system had become necessary through the exigencies of justice; and even admitting that the provision made by it was somewhat more ample than was necessary, that

was an error on the right side, and would save to suitors, in the prompt decision of cases, vastly more than the new system would cost. Besides, those superfluities might be retrenched without repealing the act. Indeed, a re-establishment of the old system was quite out of the question. It was also urged, and with great positiveness, that, whether the act was good or bad, as the new judges had been appointed for life, that appointment amounted in substance to a contract on the part of the public, which, consistently with the spirit of the Constitution, could not be set aside. To none of these arguments would the Republicans listen; and the bill for repealing the late act finally passed the Senate, sixteen to fifteen—one of the administration members being absent, and another (Ogden, of New Jersey) voting in the negative.

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In the House the debate was renewed with still greater earnestness. Giles, in the course of it, made a furious onslaught upon the whole judiciary system, and, indeed, upon the entire policy of the late administrations. At length, by means of a midnight session, now first resorted to for such a purpose, the Committee of the Whole was forced to report the bill, which presently passed the House, fifty-nine to thirty-two. Eustis, the Boston representative, was the only administration member who voted against it.

Feb. 13.

March 1

March 3

Jefferson appears to have been very doubtful, at least previous to the meeting of Congress, whether the judges had not a freehold in their offices of which they could not constitutionally be deprived. But he did not hesitate to sign the act. Nor, indeed, whatever might be thought of the expediency of the repeal, could there be any solid doubt of the power of Congress in the matter, the repeal being, as it was, a bona fide one, and not a

CHAPTER mere trick to deprive the judges of their offices, with
 XVI. intent to establish those offices anew and to give them
 1802. to others.

Having thus destroyed the work of the Federalists, a
 April 29. bill was brought in and presently passed by which the terms of the Supreme Court were reduced to one annually, which a majority of the judges was authorized to hold. Instead of three circuits as formerly, six were constituted, but somewhat differently from those of the repealed act, Maine, Kentucky, and Tennessee not being included in the arrangement. A single judge of the Supreme Court was to be assigned to each of these circuits, to hold semi-annual courts in each district, with the district judge for an associate. In case they differed on a point of law, the matter was to go up by certificate to the Supreme Court. This system, with some addition to the number of Supreme Court judges, and an increase of circuits and districts, remains in force to the present day (1851). It answered well enough for a certain period, but its inadequacy has long since become fully apparent; and the almost hopeless accumulation for years past of business before the Supreme Court gives but too abundant occasion, at least to the unfortunate suitors, to lament that the act of 1801 was ever repealed.

While the Senate were busy with the repeal of the Judiciary Act, the House attacked the internal taxes, including the duties on domestic distilled spirits, and on licenses to retail them, the stamp duties, and the excises on refined sugar, sales at auction, and pleasure carriages. The gross produce of these taxes was about a million annually; but, deducting the cost of collection, and the stamp duties, just about to expire, the nett revenue would be about \$600,000, of which \$500,000 was derived from the tax on distilled spirits. The objection urged

to these taxes was the expensiveness of the collection in proportion to the product—the principal burden of a treatise by Gallatin published several years before—to which were added the old arguments as to their anti-republican character, and the system of espionage which they made necessary.

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Griswold insisted that, before repealing these taxes, the House ought first to take up a resolution which he had offered for indemnifying the sufferers by French spoliations whose claims on France had been given up under the convention with that country, as modified first by the Senate and then by Bonaparte, and lately ratified by the president in its modified form, the consideration being the release of the United States from the obligations of the former French treaties. But, without committing themselves as to the validity of this claim, or stopping to inquire into it, the House refused to be thus diverted from their predetermined course.

It was next suggested that, if a reduction of taxes were practicable, it ought to be made, not on distilled spirits, a pernicious luxury, but on tea, coffee, sugar, and salt, articles of necessary consumption, taxed under the existing tariff fifty per cent. on their foreign cost. Special reasons were also urged why the system of internal revenue should not be abolished. That revenue was a sure resource, and in the fluctuations to which foreign trade was exposed, the country might yet be driven to rely upon it. After much experience, the machinery for its collection had been brought into good working order, and it would be well to keep it up against time of need, since to reconstruct it anew would be an affair of labor and delay. But this argument also, the force of which became evident enough some ten or twelve years after, now passed unheeded.

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- Of all subjects of taxation, there seemed to be none fitter than distilled spirits. The other internal taxes produced but little, and might be repealed ; but this, it was urged, ought to be retained for moral as well as financial reasons. Weighty as this argument was, the majority well understood, though they did not say so, that no greater boon could be conferred upon a very zealous and noisy portion of the Republican party than the repeal of this same tax, which Jefferson himself had pronounced " execrable," and to which Gallatin and others had stimulated a passive resistance, resulting at length in actual insurrection. The repeal, also, had the additional recommendation of getting rid of another batch of obnoxious office-holders. It had been decided upon as a party measure, and was carried sixty-one to twenty-four, several of the Federalists being absent or omitting to vote. It passed the Senate soon after by a like party division. By a very unusual practice, several calls for information, without being objected to or debated, were silently voted down by the majority, whom the Federalists stigmatized in consequence as the " dumb Legislature."
- A fourth recommendation of the president was carried out by the passage of an act repealing the late impediments placed in the way of the naturalization of foreigners, and re-enacting the provisions of the act of 1795, which still continue in force.
- The retrenchments recommended by the president and adopted by Congress had in view not only the repeal of the internal taxes, but the provision of means for the prompt reduction of the public debt, always a great bugbear to Jefferson. Gallatin, who aspired to rival Hamilton as a financier, but whose best claims in that respect had thus far been exhibited in a strict adherence to the

system of his predecessors, suggested to Congress, and they adopted, some new arrangements on that head. Somewhat more simple than those previously in force, these arrangements, however, were only feasible with a full treasury, such as Gallatin anticipated, but which his predecessors had never enjoyed. Hamilton's Sinking Fund Act had appropriated a variety of funds out of which to meet the annual interest and installments of the public debt; to which were to be added such surpluses as might remain after paying the current expenses. Gallatin proposed to pledge absolutely, toward the interest and discharge of the debt, the round annual sum of \$7,300,000, exceeding by \$1,200,000 the sum absolutely appropriated by Hamilton's act, leaving the current expenses to be met out of such surplus of revenue as might remain after this annual payment.

As the Territory northwest of the Ohio appeared by the census to have a population entitling it to admission into the Union, the people residing within the present limits of Ohio in accordance with many petitions to that effect, were authorized to organize themselves as a state, a convention to meet at Chillicothe in November to form a constitution. The remainder of the territory was to be annexed to Indiana. In consideration of the passage by the new state of an irrevocable ordinance exempting from taxation for four years all lands newly purchased of the United States, Congress proposed to grant, in return, one township in each section for the support of schools, being one thirty-sixth part of all the lands in the state; besides five per cent. of the proceeds of all lands sold, to be laid out for the construction of roads; three per cent. of it, by a subsequent act, to be expended within the state, and two per cent. upon roads leading to the state from the eastward.

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April 30.

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The Board of Commissioners which hitherto had managed the affairs of the City of Washington was dissolved by an act of this Congress, and a superintendent appointed in their place. Means were also provided by the same act for paying the loan due to the State of Maryland. Another act provided a municipal government for the city.

Just before the close of the late administration, the renewed negotiation with England on the subject of British debts had been brought to a conclusion by an agreement on the part of the United States to pay, in discharge of the liabilities assumed by Jay's treaty, the sum of \$2,664,000 in three annual installments. A bill was accordingly passed at this session appropriating the means for this payment, being, in substance, so much added to the assumption of state debts, the larger part of it on account of Virginia.

The subject of the balances due from certain states was again brought up. As no payment could be got, except a partial one made by New York in expenditures on fortifications, a bill was introduced discharging the debt. That bill failed to pass; but though the claim of the United States was thus kept alive, it never produced any thing to the treasury.

One of the results of the recent Republican triumph in Pennsylvania was an Intrusion Act, so called, subjecting to very severe punishment, by fine and imprisonment, the Connecticut settlers on Wyoming lands, under pretended Susquehanna Company grants of date subsequent to the Trenton decision. These unfortunate squatters thereupon appealed to Congress for the transfer of all such prosecutions to the Federal courts, and a trial out of Pennsylvania. Apart from constitutional difficulties in the way, the fact that they were New Englanders and

mostly Federalists left them no hope from this Congress; and, after a twenty years' struggle, which had bred not a little of ill blood between New England and Pennsylvania, they found themselves at length obliged to succumb, and to make such compromises and settlements as they could.

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A few days before the close of the session, the president communicated to Congress the compact as to the territory between the Mississippi and the Chattahoochee, which, under the full powers granted for that purpose, had been entered into by the commissioners of Georgia on the one part, and those of the United States on the other; the latter being the Secretary of State, the Secretary of the Treasury, and the Attorney General. By this compact, to remain in full force unless rejected by one party or the other within six months, Georgia ceded to the United States all her claims to territory west of what now constitutes her western boundary, on condition of receiving out of the first nett proceeds of the lands sold the sum of \$1,250,000, and of what ultimately proved of far higher cost, an undertaking on the part of the United States to extinguish, at the expense of the Federal treasury, the Indian title to the lands reserved by Georgia "as early as the same could be peaceably obtained on reasonable terms;" especially the Indian title to that tract between the Oconee and Ocmulgee, so long and so perseveringly sought by the Georgians. It was also provided, by the terms of the compact, that whenever the population of the territory thus ceded should amount to 60,000, or earlier at the option of Congress, the ceded territory should be erected into a state, on the same terms and conditions contained in the ordinance of 1787 for the government of the Territory northwest

April 24

CHAPTER of the Ohio, "that article only excepted which prohibits
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1802. Of the hundred thousand square miles of territory of which the United States thus acquired the jurisdiction, all except a very small portion was still in the hands of the Indians; the Creeks and Cherokees toward the east, the Chickasaws and Choctaws toward the west. The only portion to which the Indian title had been extinguished by the former French possessors, and on which any white settlements existed, were two tracts of nearly three thousand square miles each, one extending along the Mississippi from the Florida line to the mouth of the Yazoo, the other between the waters of the Pascagoula and the Tombigbee, its southern limit being fifty miles north of the Florida line, from which, as well as from the tract on the Mississippi, it was separated by an intervening wilderness. An immediate cession of a part of the much-coveted tract between the Oconee and Ocmulgee, obtained from the Creeks by a considerable expenditure of presents at a treaty held with them in the course of the summer, induced the State of Georgia to allow this compact to go into force. The Choctaws and Chickasaws, by previous treaties (October and December, 1801), had already conceded the right to open a road through their territory from Nashville to Natchez.

June 16. Whatever may be thought of Jefferson's politics, he was undoubtedly a philanthropist; he entered with zeal into the benevolent policy of Washington toward the Indians; and at his recommendation, an act was passed for regulating intercourse with them on the system already existing, and for sustaining the public trading-houses for supplying them with goods.

Congress having recognized the existence of war with

Tripoli, authorized the fitting out of such a naval force as the president might see fit. A squadron, manned and equipped for two years' service, consisting of three large and two smaller frigates, to which was added the schooner *Experiment*, was accordingly got ready to relieve Dale's ships. The command was offered to the gallant Truxtun, who declined because, with the characteristic parsimony of the administration, he was refused a captain for his flag-ship. To punish him for thus presuming to differ from the executive, his letter of declination was construed, contrary to his intention, as a resignation of his commission, and under that pretense he was struck from the navy list. The command of the squadron was then given to Morris. Tripoli could only be brought to terms by a vigorous blockade or by a bombardment. But a close blockade required a number of small vessels, while for a bombardment the armaments of the frigates were not well adapted.

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Ever since the alliance between France and Spain, it had been strongly suspected that France intended to obtain the retrocession of Louisiana, perhaps with the addition of Florida also. These rumors increasing as the negotiations for the peace of Amiens proceeded, Livingston at Paris, Charles Pinckney at Madrid, and King at London, had been specially instructed to endeavor to defeat that cession; which, however, by a secret treaty, had been already made (October 1, 1800), to take effect within six months after the complete execution of another treaty, by which Tuscany, then a republic, had been assured as an hereditary dominion to the Duke of Parma, the King of Spain's son-in-law.

Even for Spain to command the mouth of the Mississippi, thus holding at mercy the trade of the Western country, now in so rapid progress of settlement, was a

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very uncomfortable thing. Out of this circumstance had heretofore grown intrigues, already referred to, on the part of some of the leading politicians of Kentucky, to break the union with the states east of the mountains, and to enter into relations, more or less intimate, with Spain. Should an enterprising nation like the French—one, too, for which such partialities had been felt—obtain the key of the Western waters, who could tell what might happen? This state of things, wrote Jefferson to Livingston, “completely reverses all the political relations of the United States, and will form a new epoch in our political course. We have ever looked to France as our natural friend—one with whom we could never have an occasion of difference; but there is one spot on the globe the possessor of which is our natural and habitual enemy. That spot is New Orleans. France, placing herself in that door, assumes to us the attitude of defiance. The day that France takes possession seals the union of two nations, who, in conjunction, can maintain exclusive possession of the ocean. From that moment we must marry ourselves to the British fleet and nation. We must turn all our attention to a maritime force, and make the first cannon fired in Europe the signal for tearing up any settlement France may have made.” Much was added to the same effect as reasons why the French government should consent to the transfer of Louisiana, or, at least, of the island of Orleans, to the United States—suggestions which Livingston was instructed to make in a way not to give offense.

April 2. A letter, some days before, to Kosciusko, who had written to inquire whether some countrymen of his could find military employment in the United States, expressed, in a somewhat exulting tone, Jefferson’s view of the state of public affairs: “The session of the first Congress con-

vened since Republicanism has recovered its ascendancy will pretty completely fulfill all the desires of the people. They have reduced the army and navy to what is barely necessary. They keep in service no more than men enough to garrison the small posts, dispersed at great distances on our frontiers, which garrisons will generally consist of a captain's company only, in no case of more than two or three, and in not one of a sufficient number to require a field officer; and no circumstances whatever can bring these garrisons together, because it would be an abandonment of their posts. They are disarming executive patronage and preponderance by putting down one half the offices of the United States which are no longer necessary. These economies have enabled them to suppress all the internal taxes, and still to make such provision for the payment of the public debt as to discharge it in eighteen years. They have lopped off a parasite limb planted by their predecessors on the judiciary body for party purposes; they are opening the door of hospitality to fugitives from the oppressions of other countries; and we have suppressed all those public forms and ceremonies which tended to familiarize the public eye to the harbingers of another form of government. The people are nearly all united. Their quondam leaders, infuriated with the sense of their impotence, will soon be seen or heard only in the newspapers, which serve as chimneys to carry off noxious vapors and smoke, and all is now tranquil, firm, and well, as it should be."

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Yet many symptoms already, or soon after, appeared, of an internal agitation and a party bitterness not very consistent with Jefferson's boasts of political tranquillity and a united people. Early in the session a committee had been appointed, of which Nicholson and Giles were

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principal members, to investigate the past expenditures of the government, and to inquire whether moneys drawn from the treasury had been properly accounted for. This committee grew out of charges freely indulged in by the Democratic newspapers, by reason of certain defaults which had happened among some of the disbursing agents in the latter part of Adams's administration, and which had been seized upon as proofs of a general and widespread corruption. Perhaps, also, it was intended as a sort of counter-blast to the outcry of the Federal newspapers respecting a very profuse expenditure, as they alleged, without any appropriation having been made for it, in refitting the *Berceau*, one of the captured vessels restored under the French treaty—a subject to which attention had been called on the floor of the House.

May 1.

The report on past expenditures was deferred till three days before the close of the session, when a very one-sided statement, drawn up by the administration majority of the committee, with the aid of Gallatin, and without the knowledge of the Federal members, was laid before the House—a miserable electioneering document, under the disguise of a Congressional report; the first instance of the sort in our history, but of which too many, the usual consequence of bad precedents, have since occurred. The studied intention of this report was, by a partial statement of facts, which the committee well knew to be capable of complete explanation, to convey the impression to the public that the pecuniary transactions of the late administration had been conducted in the loosest manner; that many large sums of public money remained unaccounted for; and that many large expenditures had been habitually made without any lawful authority. Though any direct assertion of that sort was carefully avoided, the report pointed distinctly to a conclusion

that, when the accounts came to be finally settled, very large deficiencies would appear.

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To this attack upon the late secretaries, made in an official shape, under circumstances which had allowed, neither to them nor to their friends in Congress, any opportunity of explanation, and which too plainly evinced malignity of intention, Wolcott presently made a reply in the form of a pamphlet, not less remarkable in those days of excitement, for its perfect decorum, than for its conclusive exposures of the party fraud attempted by the committee.

The repeal of the Judiciary Act denounced by the Federalists as the first step toward the overthrow of the Constitution itself (which they still charged to be the secret object of the Republican leaders), and followed up by a report like this, and by new removals from office, tended but little to the subsidence of political feeling. Wolcott having lost his office as judge, his friends in New York gladly availed themselves of his financial talents as president of the Merchants' Bank, established in that city about this time, at first under articles of association, without a charter. Two new journals, on the ultra Federal side, had recently made their appearance, the Evening Post, at New York, edited by Colman, and understood to express the sentiments of Hamilton (Webster's Commercial Advertiser adhering to the more moderate section of the party), and the Palladium, at Boston, to which Ames made large contributions, but the aid of whose pen was presently transferred to a still newer journal, called the Repertory.

In their renewed attacks upon the president, the Federalists found an unexpected ally in that zealous Democrat, Callender, who, at the time of Jefferson's accession, had just served out his term of imprisonment under the

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sentence against him for seditious libel. He had even been able, by the assistance of political friends, to pay into the hands of the marshal the fine imposed upon him, which, however, Jefferson, by a somewhat doubtful exercise of power, ordered to be returned by virtue of a pardon which he hastened to grant. Not satisfied with this mere remission of his fine, Callender applied to be appointed post-master of Richmond; but his libelous pen being no longer needed, Jefferson sent him fifty dollars and a civil refusal. Indignant at this treatment, Callender availed himself of the columns of the Richmond Recorder, of which he became an editor, to charge upon Jefferson's encouragement and aid in, and responsibility for, the libels which he had published, especially "The Prospect before us," that scandalous pamphlet which had given rise to his prosecution under the Sedition Law. This "base ingratitude" on the part of Callender, whom Jefferson denounced as a "lying renegade," touched him to the quick; and he wrote to Governor Monroe, authorizing a public statement, which was accordingly made, that his connection with Callender had been only that of a generous patron to a distressed man of letters, to whom, out of pure charity, he had made occasional donations. He promised to send copies of all the letters he had ever written to Callender; but from this he afterward excused himself on the plea that he could not find them. Callender, however, had preserved the originals, and he hastened to print them; whereby it appeared that Jefferson had not only contributed fifty dollars toward the publication of the "Prospect before us," but that he had furnished information for it, and had seen and highly approved of a part, at least, of the proof-sheets.

Nor did Callender stop with the publication of these letters. Assisted with information from Jefferson's Fed-

eral neighbors, he entered into the history of his private life; and it is a striking instance of retributive justice that the very man who had been instigated and assisted, if not by Jefferson himself, by some one or other of the Virginia clique, to bring before the public the amours of Hamilton, should now, to Jefferson's infinite annoyance—for his temperament was so sensitive that he blushed like a woman at any such allusions—have done the same kind office for him. It was from this source that originated, among other things, the story of Jefferson's attempt to seduce a neighbor's wife, and of his semi-African concubine—by the father's side a sister, it was said, of his more lawful spouse, and the mother, by him, of a large family of unrecognized colored children—stories told with minute circumstances, never contradicted, and which, acquiring general credit, formed the sting of many a political pasquinade.

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In this emergency, George Hay, late one of Callender's counsel on his trial for libel, and now, by Jefferson's appointment, district attorney of Virginia, procured Callender to be arrested and carried before two magistrates, with the intent to play off upon him that same piece of legal tyranny lately exercised by M'Kean over Cobbett, in compelling him to give security to publish no libels. But this attempt appears to have excited some misgivings among some of the Virginians who had raised such clamors against the Sedition Law, and Hay found himself obliged to defend his conduct in a pamphlet. Jefferson was speedily relieved from his troublesome accomplice, who was accidentally drowned not long after while bathing in James River. But the stories which he had put in circulation did not die with him; they continued to be kept alive in the Federal newspapers, and some three years after (1805) received additional

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confirmation through an unlucky movement of Jefferson's friends in the Massachusetts Legislature, by whom a motion was made to deprive the publishers of the *Palladium* of the state printing, on the ground of its abuse of the president in the republication of, or allusion to, these stories; in consequence of which motion, an affidavit was presently obtained from Virginia, and published in the *Palladium*, from a person who professed himself a neighbor of Jefferson's and personally cognizant of the facts.

Nor was his association with Callender the only one by which Jefferson was exposed to obloquy. The egregious vanity of Thomas Paine had led him to publish in Paris Jefferson's letter containing the offer of a passage to America in a public vessel. But Paine, instead of being esteemed as formerly as a lover of liberty, whose vigorous pen had contributed to hasten the Declaration of Independence, was now detested by large numbers as the libeler of Washington and the scoffing assailant of the Christian religion; and this marked piece of courtesy extended to him, coupled with Paine's return to America soon after, occasioned a renewal of the attacks upon Jefferson's religious opinions, which had, indeed, been a good deal urged pending the presidential canvass.

The first American Free-thinker who went so far as to deny the supernatural origin of the Christian religion appears to have been Jeremiah Dummer, for many years colonial agent of Massachusetts and Connecticut, and celebrated for his "Defense of the New England Charters." Though grandson of one of the Puritan fathers, and himself a theological student, Dummer had imbibed from personal intercourse the religious opinions of Bolingbroke. But as he was careful to keep them to himself, and as he lived the greater part of his life and died

in England, his views could have had little or no influence in America. Yet converts were not wanting there to the same opinions, of whom Franklin was the most illustrious. He, however, at least in his maturer age, was no propagandist. He thought religion necessary for restraining the ignorant and viciously inclined; and considering it highly dangerous "to unchain the tiger," he ostensibly adhered to the Church of England, and seems not to have favored any attacks upon current religious ideas. The first work of that kind published in America was Ethan Allen's "Oracles of Reason," which appeared in 1786. That Jefferson entertained similar opinions was evident from several passages in his "Notes on Virginia," published in London in 1787.

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The renunciation of the Christian religion by the French republic, and the publication of Paine's "Age of Reason," the first part in 1794, the second part in 1796, a work extensively circulated in America, not only made a considerable number of converts to Deistical opinions, but emboldened many openly to avow ideas long secretly entertained. Still, the impression was very slight. Of the comparatively small number able and inclined to reason on the topic of religion, by far the greater part stopped short with denying, doubting, or explaining away the divinity of Christ, and, along with it, the doctrines, one or all, of the Trinity, the atonement, total depravity, the new birth, and eternal punishments. A considerable proportion of the Congregational clergy of New England, with a certain number of the more intelligent laymen, secretly rejected these dogmas, or doubted with respect to them. But, knowing themselves to be far in advance of the masses, like the Armenians of the times preceding the great revival of 1740, they observed a discreet silence in public.

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Jefferson's relations to the religious opinions of his country were somewhat peculiar. He believed, like Paine, in a personal God and a future life, but, like him, regarded Christianity, in the supernatural view of it, as a popular fable, an instrument for deluding, misgoverning, and plundering mankind; and these opinions he entertained, as he did most others, with little regard to any qualifying considerations, and with an energy approaching to fanaticism. But he was no more inclined than were the New England Rationalists to become a martyr to the propagation of unpopular ideas. That he left to Paine and others of less discretion or more courage than himself. He found a safer and more popular way of indulging his sentiments in an avowed and active hostility to all public establishments for the support of religion, and especially to the establishment which, during colonial times, the Church of England had enjoyed in Virginia and the other Southern States. By the act of Virginia of 1776 suspending the collection of parish rates, confirmed and extended by the Religious Freedom Act of 1785, in both of which enactments Jefferson had a large share, and which had been carried by means of the co-operating jealousy and hatred of the Baptists and Presbyterians, he struck a blow at the Church of England in Virginia from which it has never since recovered. But, even in this disabled state, that church still continued an object of jealousy alike to the Free-thinkers, of whom there was a considerable number among the educated planters, and to the Baptists and other sectaries; and a recent act (1799) had repealed all the laws passed since the Revolution which seemed to acknowledge a corporate character in that church. Still more recently the favorite point had been carried of forfeiting the glebes as fast as they became vacant, to be sold for such pur-

pose, "not religious," as a majority of the parishioners should elect. CHAPTER
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This zeal against church establishments having accomplished its end in the Southern States, and having tended, so far as the Dissenters, the majority of the population, were concerned, to promote Jefferson's popularity there, was now directed against the system of the New England churches; furnishing also a strong point of sympathy between Jefferson and the New England sectaries. This hostility to the support of religion by public authority might be consistent enough on the part of Jefferson and of those who agreed with him in regarding the religion of the country as no better than a mischievous delusion. It might also be consistent enough on the part of those sectaries who, disregarding human means, relied on God's miraculous support. But upon what logical basis this movement could find favor with those who entertained different views, it is not so easy to explain. 1802

The result of the French Revolution had tended to confirm the opinion that something more than a proclamation of the rights of man, to wit, general intelligence, virtue and good morals, public and private, afforded the foundation upon which alone a republican government could be sustained. It was also generally admitted, then as now, that religion furnished the only solid support for morality. Such being the case, was it not the bounden duty of the government to provide for public instruction in religion, just as much as for public instruction in letters? Nor did this necessarily imply any infringement upon the rights of conscience, since in New England every one enjoyed, at least to a certain extent, the right of choosing what church he would support. The New England system of common schools had in its origin been intimately connected with the religious establishment.

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Both grew out of theocratic views. These views, however, had been long since abandoned; and the public support both of education and religion had been alike placed on mere grounds of human policy, the interest, to wit, which the community has in the intelligence and good morals of its members. And it was significantly remarked that, as out of New England there was no church establishment, so out of New England there was no extensive system of public education.

But it was not merely or chiefly in their character of a priesthood that Jefferson detested the New England clergy. The steady front which the Federal opposition continued to present in the states of Massachusetts, New Hampshire, and especially of Connecticut, he ascribed almost entirely to clerical influence; and he held up those states in his private correspondence as unfortunate priest-ridden communities, led by the nose by a body of men "who had got a smell of union between church and state," the natural enemies of science and truth associated together in a conspiracy against the liberties of the people; opinions publicly reiterated by the grateful Bishop in a long series of articles, addressed to the Republicans of New England, on the conspiracy of church and state against Christianity and the government of the United States.

The clergy of New England, from the commencement of the Revolution, had taken a very active part in politics; and so they continued to do throughout the administration of Jefferson and his successor. This part they took, not in their character of clergymen merely, but rather as men of superior education and intelligence, and of high moral character, placed, by the life-tenure of their parishes, in a position of comparative leisure and independence; circumstances which made them, in conjunction with the lawyers, with whom their relations

were intimate and harmonious, as much the natural leaders of New England as the slave-holding planters were natural leaders in Virginia. In the general justice of their views on political affairs, they had no reason to fear comparison with their Virginia rivals; and there is still room for reasonable doubt (the course of events, aided by quarrels among themselves, having deprived them of their establishment, and stripped them of all political power) whether the transfer of the entire guardianship of our politics into the hands of office-seekers and politicians by profession has resulted in any special benefit to the community, however the calling it Republican and Democratic may delight our ears.

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Jefferson seems to have considered himself excessively ill treated by the clergy, who were constantly twitting him with his infidel opinions. But it does not very distinctly appear in what respect the religious bigotry of the clergy was at all worse than Jefferson's political bigotry. They seem, in fact to have been but varieties of the very same thing. While he took advantage of popular prejudices to hold them up to odium as enemies of popular rights, and thereby to strip them of their power and their position, was it any thing more than a fair retort for them to appeal, in their turn, to popular prejudices, and to hold him up as the enemy of religion, and consequently the enemy of that upon which good morals and social order can alone be securely based, and therefore not fit to be trusted with political power?

In that freedom resulting not from mere thoughtlessness or impatience of restraint, but founded upon reflection and investigation, New England then, as now, was very far before the rest of the country; but, however freely some of the New England clergy might speculate in their closets, in matters of practice the great body of them were inclined to carry their conservatism, or what

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they called the maintenance of "steady habits," considerably further than was consistent with the just and natural progress of society. This disposition, always strong enough in such bodies, had been, of late, greatly re-enforced by that powerful reaction, felt in America as well as in Europe, against the rage for innovation, without stopping to consider to what it would lead, which had made the French Revolution appear, to cotemporary eyes, so strange a mixture of the terrible and the ridiculous. The story of Barruel and Robinson, ascribing the origin of that revolution to a conspiracy of free-thinkers, associated, with Voltaire at their head, for the overthrow of the Christian religion, and having affiliated branches in America as well as in Europe, had found extensive credence; while the result of that revolution, after twelve years of such ardent aspirations, impassioned hopes, wild commotions, desperate struggles, and civil bloodshed, in a mere military despotism, served to confirm hostility to change, however plausible in theory; and to inspire the idea that the salvation of the country against the horrors of Jacobinism depended upon preserving from rash innovation those venerable institutions under which, thus far, it had grown and prospered.

So far, indeed, as related to a public provision for religious teachers—the great instance, according to Jefferson, of the political benightedness of New England—there was something plausible to be said in defence of it, even upon Jefferson's own views. Grant that religion is but another name for superstition, a thing in itself unprofitable and pernicious; yet religion the people will have; and by abolishing all public provision for religious teaching, you are but opening the door to a flood of extravagant fanaticism, the surest safeguard against which is to be found, after all, in a well-educated clergy, from intellectual necessity keeping up, to a great degree, with

the progress of the times, and secured by decent and permanent salaries against the perpetual temptation to purchase a precarious support by playing upon the superstitions, and constantly applying fresh stimulus to the excited fancies of their flocks.

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Such a view of the case, taken by numbers of Federalists who made no pretensions to be themselves religious men, and who indulged personally in great latitude of opinion, was very much strengthened by events already taking place in the South and West, where the abolition of religious establishments had by no means proved an extinguisher to religious fanaticism. At this very moment one of those revivals was in progress in Kentucky and the other Western settlements which, in the last fifty years, have produced such remarkable results in America; building up, in place of the religious establishments once supported by law, new volunteer sectarian organizations, certainly in no respect more favorable to freedom of opinion, to reason, or to learning, however they may have exceeded in warmth of piety and glow of feeling. In those Western settlements, where there were very few educated preachers, and little regular provision for public worship, the same religious excitement which had produced in ancient times the passionate orgies with which the worship of Bacchus and Cybele used to be celebrated, displayed itself now, in excesses, under the names of religion, not a whit less extraordinary. Among other things of the like sort, during the two or three years that this excitement was kept up, it was not uncommon to find companies assembled in the woods, some praying and others barking like dogs, employed, to use their own backwoods phraseology, in "trecing the devil."

The decent and moderate religionists of New England, where latitudinarian views at this time were extensively prevalent, if not decidedly predominant, were hardly less

CHAPTER shocked by these excesses than by Paine's unceremoni-
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 ers on the other, their patience was not a little tried. On the other hand, the Free-thinkers and the sectaries were able to co-operate politically without much difficulty; and many of Jefferson's greatest admirers were to be found among the latter class. Appeals to the reason, like those of Paine, gave but little trouble to men who relied, as most of the sectaries did, upon the visible converting presence of the Holy Spirit; while both extremes had a strong bond of sympathy in their common hostility to the established clerical order, by which the Free-thinkers expressed their dislike to all priesthoods, while the sectaries not only indulged the bitterness of theological rivalry, but signified also their confidence that their own worship, being the true one, would be upheld by Divine aid, without need of a legal support, only necessary for a dead and formal religion—one of the head, and not of the heart.

There was also a still deeper and more permanent bond of sympathy, not consciously perceived by either party. Enthusiasm in religion is, in its ultimate analysis, but a species of free thinking—that form which free thinking takes when developed in minds in which imagination and the feelings predominate over the reason. Free-thinkers denounce prevailing opinions, and appeal to first principles, and religious enthusiasts do the same thing. Free-thinkers had united with Luther against the Church of Rome; Free-thinkers had united with the Puritans against the Church of England; Free-thinkers had united with the Church of England against the Congregational Church establishments of Massachusetts and Connecticut; and Free-thinkers now, throughout the United States, united with the various enthusiastic sects against any public provision for the clergy.

Political enthusiasm discouraged by the results of the French Revolution, was already dying out, without having produced hardly any modifications of laws or constitutions. In Maryland, indeed, where such a change was necessary to secure the permanent ascendancy of the Republican party, the triumphant Democrats brought in and presently carried an amendment of the Constitution abolishing the property qualification of voters. But in Virginia, in spite of the theoretical democracy of which that state was the fountain-head, all attempts failed to liberalize a constitution, as to the right of suffrage one of the most exclusive in the Union. We shall see hereafter with how little success the Pennsylvania Democrats attempted to throw off the yoke of the lawyers.

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But while political enthusiasm was thus expiring, religious enthusiasm ran on for many years a vigorous course; suppressing free thinking on the one hand and legal provision for the clergy on the other, and building up great and powerful religious establishments on the principle of free association and voluntary contributions. Nor did it stop there. Descending, in our day, from the heavens to the earth, and, with the more general diffusion of intelligence, taking on, among the better informed, a more practical shape, it has pushed, and is pushing, with all its native energy, many great questions of social reform; and even dashing with fury against the very religious establishments it had formerly built up, whenever it finds in them obstacles to its present career; at times assailing even the fundamental dogmas of all formal religions with a species of artillery infinitely more dangerous than any that Paine or Jefferson ever used.

Yet, as all general statements are to be taken with some allowance, so there were to be found among the New England Republicans a certain number of as zeal-

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ous sticklers for the New England system of religious establishments as any of the Federalists ; including even two or three eminent clergymen, the secret of whose politics is to be sought either in very hopeful views of the improvability of human nature, or, if their creed was more orthodox, in an inextinguishable hatred against England, kindled in the Revolution.

The great mass, however, of the New England Republican party was made up of secret or open, latitudinarian, free thinking, or fanatical dissenters from the religious establishment, who now sought support against that establishment, and aid to overthrow it, from the general government, just as, in the times of the first Massachusetts charter, a similar party had done from the government of England ; while the New England Federalists, on the other hand, presently came to regard the general government, the infancy of which they had so carefully nursed, with much the same jealous and hostile spirit formerly exhibited toward the mother country.

Nor was that political millenium, of which Jefferson so fondly hoped to become the high priest, delayed only by the execrations of the Federalists. Alarming symptoms appeared of growing divisions in the Democratic ranks. In Pennsylvania, where M'Kean was re-elected governor by forty-five thousand out of sixty thousand votes, with an overwhelming Republican majority in both branches of the Legislature, these dissensions, though already visible, were still kept in check ; but in New York a decided breach had already occurred.

Greenleaf's Argus, the former organ of the Republicans of New York, had been succeeded by the American Citizen, established by Dennison, a relation of the Clintons, and warmly devoted to their interests. Dennison having no ability as a writer, the editorship of the paper had been given to James Cheetham, a man of superior

talents, an immigrant from Birmingham, in England, a disciple of Paine's, though ultimately his unfriendly biographer. This paper, simultaneously with the adjournment of Congress, began to attack Vice-president Burr with great vehemence, charging him with having forfeited his position in the Republican party by his secret intrigues and co-operation with the Federalists, on occasion of the late election of president. Of this, indeed, there was no very positive proof; for in cautious secretiveness and silent activity Burr was a match for Jefferson himself. Yet circumstances were cited going to show efforts on the part of Burr and his friends to operate on the New York and New Jersey members.

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This attack did not grow out of any special regard entertained by the Clintons and Livingstons for Jefferson. But it furnished a plausible and popular ground on which to assail Burr, and might help them to engross through the favor of the president, to whom, not less than to themselves, Burr was an object of jealous suspicion, the control of the Federal executive patronage in New York. It was further alleged against Burr, that, with a view to the next presidential election, he still kept up with the Federalists a secret intrigue. He was charged with having been opposed to the late repeal of Adams's Judiciary Act, and with having influenced Ogden and Eustis, the only two Republicans who had voted against it. He had attended at Washington a Federal celebration of Washington's birth-day, and had given for his toast "the union of all honest men;" and a further proof urged against him was the paying a sum of money to suppress a history of John Adams's administration, compiled chiefly from the *Aurora* and Callender's pamphlets by one John Wood, a recent Scotch immigrant. This suppression had been attempted, as Cheetham said, on account of the developments con-

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tained in the book respecting Dayton and other of Burr's Federal friends, but, as Burr himself alleged, on account of the disgrace which its numerous libels and blunders would have reflected on the Republican party.

To counteract these attacks, Burr and his friends established the *Morning Chronicle*, edited by Dr. Irving; and besides newspaper articles, several virulent pamphlets were published on both sides. As to the alleged intrigues on occasion of the presidential election, Burr's friends suggested in whispers, which presently, however, found their way into print, not a little to Burr's injury, that since his election Jefferson had given offices to Dent. Linn, Livingston, and Claiborne, four of the six persons whom it had been expected might vote for Burr, and in fulfillment, as it was hinted, of promises made to secure their fidelity. Lyon's son had also received a clerkship; and Bailey, who alone remained unprovided for, was soon added to the list as post-master of New York.

Nor was the controversy confined to print. John Swartwout, who had obtained, through Burr's interest, the office of marshal for the district of New York, challenged De Witt Clinton for having called him "a liar, a scoundrel, and a villain." Five shots were exchanged. Though twice wounded, Swartwout still kept his ground, and demanded to go on; but Clinton, after consulting with his seconds, threw down his pistol, and refused to fire again. In this excited state of political feeling, several other political duels occurred, some of them fatal.

The re-establishment of the colonial empire of France was a favorite project of Bonaparte's, and with that view the cession of Louisiana had been obtained. But these American projects had met with some checks. Toussaint had followed up his treaty with the British, for the neutrality of St. Domingo by taking possession of the

Spanish part of the island (January, 1801), which he claimed for France under the treaty of Basle. He had also caused a code and a new constitution to be proclaimed (July 1), under which he was declared president for life. This example was presently imitated by the black and colored population of Guadaloupe, who, headed by Pelagie, seized the governor sent out by Bonaparte, forced him on board a Danish vessel in the harbor, and established a provisional government (October 21, 1801.) But before this rising took place, the preliminary articles of the peace of Amiens had been signed (October 1); and towards the end of the year, a great fleet and army, under Le Clerc, Bonaparte's brother-in-law, had been sent to subdue the rebellious negroes of St. Domingo. This army, regarded with great suspicion by Toussaint and his black generals, only effected a landing by force, and a new civil war ensued, subjecting that unhappy country to new desolations. A momentary peace was patched up, by false assurances on the part of Le Clerc that he did not intend to re-establish slavery, and by promises of liberty and equality to the inhabitants without regard to color. Guadaloupe submitted about the same time, though not without resistance, to the fleet and army sent against it. A simultaneous decree of the French legislative body, for the re-establishment of West Indian slavery and the slave trade as they had stood in 1789, gave the lie to Le Clerc's assurances, and afforded undeniable evidence that the dream of liberty and equality was over. On suspicion of intending a new revolt in St. Domingo, Toussaint was treacherously seized and sent to France, where he died in confinement. But the arms of the negroes led by Christophe and Dessalines, and greatly aided by the diseases of the climate, rapidly thinned the ranks of the French army, which, being thus employed in St. Domingo, was unable to carry out Bona-

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May 1.

May 7-
22.

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June.

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1802. Notwithstanding this disappointment, the occupation of Louisiana was still kept in view by Bonaparte, by this time consul for life, and, in spite of the forms of a constitution, already managing every thing at his own will and pleasure. All Livingston's long memoirs to prove how useless the territory would be to the French made no impression, and that minister found himself obliged to write home that a special expedition was about sailing to take possession of New Orleans, and that the greatest oppressions of American commerce on the Mississippi, and even attempts to seize Natchez and corrupt the Western people, might be expected; whence he argued the necessity of "strengthening ourselves by force and ships at home and alliance abroad"—recommendations not much in consonance with Jefferson's favorite policy, or with the doings of the late session of Congress.

Nov. Before this letter of Livingston's was written, the Spanish intendant of Louisiana, as if to anticipate the wishes of the French, had issued a proclamation interdicting the privilege secured by the treaty of 1785, of depositing American merchandise at New Orleans. This privilege as respected that very spot, had indeed been limited to three years; but the treaty also provided, in a clause overlooked or disregarded by the intendant, that if the Americans were deprived of the use of New Orleans, some other convenient place of deposit should be provided for them somewhere else on the banks of the Mississippi. This interruption to their commerce, produced a great commotion in the Western country. It led to emphatic remonstrances from the governor and Legislature of Kentucky, and threatened to drive the administration to a speedy use of force.

In this excited state of the public mind, the seventh

Congress came together for its second session. The president's message called attention to a proposal, on the part of Great Britain, to abolish the discriminating duties mutually allowed by the treaty of 1794. Mention was made of the ratification by Georgia of the recent convention respecting the territory west of the Chattahoochee; of the cession of Louisiana to France; and of the continuance of hostilities with Tripoli, for the more effectual prosecution of which the building of some small vessels was proposed. The message also alluded, with much exultation, to the paying off within the year of five millions and a half of the public debt, toward which, however, one million had been obtained by the sale of a part of the bank stock belonging to the government—a procedure by no means satisfactory to the Federalists. Surveys and plans were submitted for constructing a dry dock at Washington, in which the public vessels not in use could be laid up, under cover from the sun—a scheme which exposed the president to not a little ridicule.

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The most interesting proceedings of the House related to the cession of Louisiana to France, and the interruption, by the Spanish governor, of the navigation of the Mississippi, for information as to which Griswold proposed to call upon the president. But this motion was zealously opposed by Randolph, and was voted down by the majority, as likely to interfere with pending negotiations. The same fate attended another resolution offered by Griswold, asserting the right of the people of the United States to the navigation of the Mississippi, and proposing an inquiry as to the proper means to maintain it. The House could only be induced to express their "great sensibility" at the interruption of the navigation, occasioned, they presumed, by unauthorized misconduct of the Spanish officers; at the same time declaring their "perfect confidence in the wisdom and vig-

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ilance of the executive," and "their unalterable determination to maintain the rights of commerce and navigation on the Mississippi, as established by existing treaties."

Jefferson ascribed the interest taken in this matter by the Federal members to a desire to force the country into a war in order to derange the finances; or, if they failed of that, at least, to gain the favor of the Western States by an appearance of zeal on their behalf. Such were the suggestions made to Monroe, whom the president informed, in the same letter, of his appointment to proceed to Paris to co-operate with Livingston in a negotiation for the purchase of New Orleans and the adjacent territory. Monroe's constitutional term of office as governor of Virginia had lately expired—his successor in that office being John Page, the same amiable enthusiast formerly one of the Virginia representatives in Congress—and it was the more necessary to provide for him in some way, as his pecuniary circumstances were rather involved.

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The ferment in the Western country continuing to increase, somewhat later in the session, Ross brought forward in the Senate a series of resolutions, authorizing the president—in retaliation for the violation of the rights of the United States by the neglect to provide a place of deposit on the Mississippi—to take possession of New Orleans, and for that purpose to call out 50,000 militia, toward which the resolutions proposed to appropriate five millions of dollars. But, instead of these resolutions,

March 3

a substitute was adopted, and made the foundation of an act, by which the whole matter was intrusted to the discretion of the president, with authority to direct the governors of the states, should he see occasion for it, to detach and hold in readiness 80,000 volunteers. Two

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millions of dollars were also appropriated, at the president's request, under the head of foreign intercourse, as

a fund toward the proposed purchase. Ross's motion CHAPTER
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had been supported by the Federal senators on the . _____
ground that the hopes of purchase were chimerical. 1503.

The abolition of the discriminating duties on British ships was opposed by the navigating interest, and failed to pass. Jefferson's dry dock scheme, after a short debate in Committee of the Whole, notwithstanding the support of Dr. Mitchill, was suffered to drop in silence. Four small vessels, to aid in the blockade of Tripoli, not to exceed sixteen guns each, were added to the navy, for which an appropriation was made of \$96,000; and with a view to possible operations on the Mississippi, \$50,000 were appropriated for fifteen gun-boats. In consequence of loud complaints from South Carolina of the illegal importation not only of slaves from Africa, but of slaves and free people of color from the French West Indies, at the risk of the importation of revolutionary principles, a fine of a thousand dollars for each person so imported contrary to the laws of any state, was imposed on the captain, with forfeiture of the vessel. Since 1798, all the states had united in prohibiting the import of slaves from abroad.

The compact with Georgia for the cession of the Mississippi country confirmed and declared valid all British and Spanish grants, and the grants by Georgia, under an act passed in 1785, surveyed and in the hands of resident settlers. It also provided that not above five millions of acres of the ceded territory or their proceeds might be appropriated to the satisfaction of other claims; but no such appropriation was to be made unless Congress acted upon the subject within a year from the ratification of the compact. This provision had in view the vast sales, commonly known as Yazoo claims, made in 1789, and especially those of 1795, covering almost the entire territory, and which had produced such an excitement in

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Georgia, those sales having been declared void, and solemnly repudiated by the Legislature.

1803. The same commissioners, Madison, Gallatin, and Lincoln, who had negotiated with Georgia the cession of the Mississippi country, had been authorized to inquire as to the various private claims to lands in that territory.

Feb. 16. They reported in favor of liberal grants to all actual settlers prior to the Spanish evacuation, however imperfect their titles might be. They also reported the facts as to the Georgia grants of 1789 and 1795, of which a sketch has been given already under those dates. The claims based on the grants of 1789 the commissioners deemed wholly invalid, the bargain having been rescinded for non-performance on the part of the grantees. As to the grants of 1795, whatever grounds of invalidity there might be as between Georgia and the original grantees, and even though the contracts might not be legally binding as between Georgia and the present holders, yet, as those holders claimed to stand, and, to a certain extent, did stand, in the position of innocent purchasers without notice, theirs seemed to be a proper case for a compromise. These claimants had put in an offer to surrender their claims at the rate of twenty-five cents the acre, amounting, as it was calculated, in the whole, to not less than eight millions of dollars; it being, however, a part of the proposition that the sum to be paid should not exceed the price obtained for that five millions of the Mississippi lands which should sell the dearest. This the commissioners thought too much; and they suggested instead the offering to the claimants certificates bearing interest to the amount of two millions and a half of dollars, or certificates without interest for twice that amount, payable out of the earliest receipts for Mississippi lands, after the stipulation to Georgia should be satisfied.

Upon this report was founded an act confirming the titles guaranteed by the compact, and creating two boards of commissioners for their adjudication ; granting, also, to settlers prior to the Spanish evacuation, whose titles might prove defective, lots not exceeding six hundred and forty acres each ; and to all persons who had settled in the territory without any valid title prior to the passage of this act, a right of pre-emption to the lands in their possession, the price payable in the customary installments, without interest. Whatever, after these deductions, might remain of the five millions of acres reserved by the compact, was appropriated for the quieting of such other unconfirmed claims as might be exhibited and recorded in the office of the Secretary of State before the close of the year, and for which Congress might see fit to make a provision ; the same commissioners being reappointed to receive proposals from the claimants, and to submit them to the next Congress.

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The same act extended to the Mississippi Territory the system for the surveys and sales of public lands already in operation in Ohio. But these surveys and sales, as well as the confirmations and donations provided for in the act, were, of course, limited to the two small tracts, containing together not more than three millions of acres, to which the Indian title had been extinguished, the one on the Mississippi, the other on the Tombigbee, erected by the Territorial Legislature into the two counties of Adams and Washington, the one the nucleus of the present State of Mississippi, the other of the present State of Alabama.

Just as the session closed, the new State of OHIO took upon itself the exercise of self-government, under a constitution framed during the preceding autumn. This constitution, one of the most democratic yet adopted, gave the right of suffrage to all male white inhabitants

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1803. representatives in the General Assembly, not fewer than seventy-two nor more than seventy-six, were to be apportioned among the counties according to the number of their voters, and to be elected annually. The senators, not to be fewer than one third, nor more numerous than half the representatives, were to be apportioned on the same principle, and were to be elected for two years. The governor was to be chosen by the people for the same term, but could not hold office more than six years out of eight. His power was limited to granting reprieves and pardons, calling extra sessions of the Legislature, and temporarily filling such vacancies in state offices as might occur during its non-session. The judicial power was vested in a Supreme Court, courts of Common Pleas, consisting of a president judge and county judges, and in justices of the peace; the judges to be elected by joint ballot of both houses for periods of seven years, and the justices of the peace by the townships for three years. All other officers, civil and military, were to be appointed by joint ballot of the Legislature; except sheriffs and coroners, elected by the people of their respective counties for terms of five years. St. Clair, the territorial governor, had been a candidate for governor of the state, but received very few votes, the nearly unanimous choice falling upon Edward Tiffin. All the northwestern part of this new state, to the extent of half its territory or more, was still in possession of the Indians.

In New York the contest between Burr and the Clintons and Livingstons continued to rage with great fury. Burr, however, was fast losing ground. After hanging for some time in the balance, the *Albany Register*, and most of the other country papers of the Republican

party, came out on the Clinton side; and it had by this time become evident that the aid of the Federalists could alone secure Burr from political annihilation. Meanwhile the Clintons and Livingstons proceeded to strengthen themselves by creating a new bank, to be called the State Bank, and located at Albany. The ground taken in its favor was, that the only three banks in the state out of New York—the Bank of Columbia, at Hudson, the Bank of Albany, and the Farmers' Bank, near Troy—were all in the hands of the Federalists. The Republican character of this new bank was secured, and at the same time the passage of its charter, by admitting all the Clintonian members of the Legislature to subscribe for a certain number of shares. The petitioners also came very near securing, at a mere nominal rent, the monopoly of the Salina salt-springs, the value of which was then but imperfectly known. Such was the first instance of that corrupt practice, subsequently carried so far in New York, of making the grant of bank charters dependent on the politics of the applicants, and of offering to members of the Legislature shares in the stock by way of securing their votes. While thus strengthening themselves, the prevailing party in the Legislature refused a charter to the Merchants' Bank, already in operation under articles of copartnership, and also to a moneyed corporation applied for by the friends of Burr. Hopes, indeed, were held out, so long as the charter of the State Bank hung in doubt, in order to secure additional votes; but, this object accomplished, the other two applications were voted down without ceremony.

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PURCHASE OF LOUISIANA. TRIPOLITAN WAR. EIGHTH CONGRESS—FIRST AND SECOND SESSIONS. COMMISSION ON BRITISH SPOILIATIONS. TERRITORIES OF ORLEANS, LOUISIANA, AND MICHIGAN. SLAVERY AND THE SLAVE TRADE. IMPEACHMENTS. PENNSYLVANIA, NEW YORK, AND NEW ENGLAND. BURR AND HAMILTON. RE-ELECTION OF JEFFERSON. IMPRESSMENTS. DIFFICULTIES WITH SPAIN. JEFFERSON'S SCHEME OF DEFENSE. YAZOO CLAIMS. INDIAN CESSIONS.

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1803. UPON his first arrival in France, Livingston had found himself regarded with great suspicion as no better than a Jacobin, the representative of a Jacobin government, inclined, perhaps, to connect himself with the democratic enemies of the first consul and the new Constitution. Livingston's democracy seems, however, to have been limited to a hatred of England. He understood well how to play the arts of a courtier; and, notwithstanding the neglect with which his first memorials had been treated, he soon ingratiated himself into Bonaparte's favor.

Before Monroe had left the United States, Livingston, though he labored under a good deal of embarrassment in having, as yet, no authority to offer any particular sum, had opened a negotiation for the purchase of New Orleans and the adjacent tracts on the Mississippi. Finding that nobody had any special influence with Bonaparte, or pretended to entertain any opinions different from his, he had managed to bring the matter directly to Bonaparte's personal notice, without the intervention

of any minister. By way of additional motive to sell, he pressed the old claims of American citizens, recognized by the recent convention, for supplies furnished to France, but upon which nothing had yet been paid. CHAPTER
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There seemed, however, to be little prospect of success till the application began to be seconded by the evident approach of a new European war. That made a great difference; and shortly before Monroe's arrival at Paris, Livingston was requested by Talleyrand to make an offer for the whole of Louisiana. That was an extent of purchase which had not been contemplated either by Livingston or by the administration which he represented. It had been supposed that the cession by Spain to France either included, or would be made to include, the Floridas as well as Louisiana; and the purchase contemplated by the joint instructions to Livingston and Monroe was that of the Floridas, or the western part of them, with the island of Orleans. The highest amount authorized to be offered was fifty millions of livres, or about ten millions of dollars. Should France obstinately refuse to sell, the ministers were authorized to enter into negotiations with Great Britain, with the view of preventing France from taking possession of Louisiana, and of ultimately securing it to the United States. April 11.

Bonaparte presently suggested, as the price of Louisiana, a hundred millions of livres, about twenty millions of dollars, in cash or stocks of the United States, to which was to be added the payment, out of the American treasury, of all the claims of American merchants recognized by the late convention. This offer was made through Marbois, the same who had been formerly secretary to the French embassy to America, and who was now at the head of the French treasury. Talleyrand had been dropped, as Livingston conjectured, because Bonaparte,

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recollecting the X, Y, Z affair, was not willing to trust him in any matter where money was concerned.

1803. Livingston and Monroe, after consulting together, concluded to offer fifty millions of livres, subject, however, to the deduction of enough to pay the American claims, estimated at from twenty to twenty-five million livres. Marbois offered to take sixty million livres, the American government undertaking in addition, to discharge the claims of the merchants to the extent of twenty millions of livres should they amount to so much.

April 30. On this basis the treaty was finally concluded, in three separate parts, all dated the same day—a treaty of cession, and two conventions regulating the payment of the consideration. The treaty, after setting forth the title of France as acquired from Spain, transferred that title to the United States, with a proviso that the inhabitants should be secure in their liberty, property, and religion, and should be admitted, as soon as possible, according to the principles of the Federal Constitution, to the enjoyment of all the rights of citizens of the United States. The ships of France and Spain, laden with the produce of those countries or their colonies, were, during the next twelve years, to be admitted at the port of New Orleans on the same terms as American vessels, and French ships ever afterward on the footing of the most favored nation. The first of the two conventions stipulated that the payment of the sixty millions of livres should be made in six per cent. stock of the United States to the amount of \$11,250,000, the interest to be payable in Europe, and the stock to be redeemable after fifteen years in annual installments of not less than three millions of dollars. Under the second convention, the claims of citizens of the United States on France were to be paid at the American treasury to the amount of \$3,750,000, on orders

of the American minister in France, such orders to be based on the joint determinations of the French bureau to which these claims had been referred, acting in conjunction with three American commissioners to be appointed for that purpose; the ultimate decision, should any difference of opinion arise, to be with the French minister of Finance. This negotiation completed, Monroe proceeded to London, to take the place of King, who had asked to be recalled.

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The news of this arrangement was received with great exultation by the president and his cabinet. The assumption of power by the ministers in bargaining for the whole of Louisiana was cordially approved, and a good deal of pains was taken to soothe Livingston, who evinced no little dissatisfaction that Monroe should have been sent out to wrest from him, as it were, the honors of the treaty. In one respect, however, this treaty placed Jefferson in an awkward predicament. He had always been a great stickler for a strict construction of the Constitution, and had strenuously denied to the general government any powers not specifically conferred upon it. But no clause of the Constitution gave Congress any express power to appropriate money to purchase additional territory. Such a power could only be maintained under that general clause by which Congress was authorized to lay and collect taxes to pay the debts and provide for the common defense and general welfare of the United States. But Jefferson had always warmly maintained, and had charged the contrary opinion on Hamilton as a most pernicious heresy, that this general clause gave no power beyond the powers afterward specifically enumerated, and among these the acquisition of territory was not included. In his private correspondence he fully admitted this difficulty, and proposed to get over it by

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 1803. amending the Constitution. But as the treaty required a mutual exchange of ratifications within six months, his plan was that Congress should grant the money, notwithstanding its want of power, and trust to a confirmation of their act under an amendment to the Constitution to be subsequently made. To hasten the matter, he issued a proclamation calling Congress together; but as the elections were not yet completed, the day fixed did but just precede the expiration of the six months.

Meanwhile, a large extinguishment was made of the Indian title to the region north of the Ohio. At a treaty held with Governor Harrison, in consideration of the protecting care of the United States, of \$580 in cash, of an increase of their annuity to \$1000, of \$300 toward building a church, and of an annual payment for seven years of \$100 to a Catholic priest (who, perhaps, had no inconsiderable part in bringing about the treaty), the little tribe of Kaskaskias, reduced to a few hundred individuals, but claiming to represent the once considerable confederacy of the Illinois, ceded to the United States, except a small reservation, all that great tract included within a line beginning at the mouth of the Illinois, descending the Mississippi to its junction with the Ohio, ascending the Ohio to the Wabash, and from a point up the Wabash west again to the Mississippi, embracing all the southern part of the present State of Illinois—a valuable tract, but not equal to many other districts of the Western country, a large part of it being prairie, portions of which were but ill supplied with good water.

The squadron employed against Tripoli, reduced by the departure of several vessels, had been able to accomplish nothing. Yet the blockade was not altogether useless. The John Adams, while cruising alone off that

port, engaged and captured the Meshouda, one of the Tripolitan cruisers lately blockaded at Gibraltar, but which, under pretense of having been sold to the Emperor of Morocco, was endeavoring to get home. Not long after, another Tripolitan ship of war, the largest belonging to the Bey, was attacked and blown up while attempting to get into the harbor.

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The four new vessels authorized at the late session, the *Argus* and *Siren*, brigs of eighteen guns, the *Nautilus* and *Vixen*, schooners of fourteen guns, were rapidly completed, and were dispatched as fast as they were ready. The frigates *Constitution* and *Philadelphia* were also sent out to relieve the other vessels, all of which except the *Enterprise* were ordered home. The command of the new squadron was given to Edward Preble, who hoisted his flag on board the *Constitution*.

Both Algiers and Morocco had lately shown signs of hostility, in consequence of which the blockade of Tripoli had been abandoned, in order that the ships might be employed in giving convoy. The *Philadelphia*, Captain Bainbridge, on her passage out, encountered and captured, just within the Straits of Gibraltar, a cruiser of Morocco, the *Mirboha*, of twenty-two guns, having an American brig in company, of which she had made prize. Some weeks after, Preble arrived at Gibraltar, whither Bainbridge had sent his prizes, and finding how the case was, he stood across to Tangier, accompanied by the *Nautilus* and the frigates *New York* and *John Adams*, which he met with at Gibraltar on their way home. Upon the appearance of this fleet, the Emperor of Morocco disavowed any orders to commit hostilities, and matters were arranged upon Preble's agreeing to restore the *Mirboha*, and also the *Meshouda*, the same vessel taken off Tripoli, but claimed by the emperor as purchased by him.

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Preble then sailed for Tripoli; but, before his arrival, a serious accident had occurred. The Philadelphia, proceeding thither, had recommenced the blockade of that port, but while standing close in shore, under a heavy press of sail, in pursuit of a vessel attempting to enter the harbor, had run with great force upon a sunken rock, upon which, in spite of all efforts to set her free, she remained immovably fixed. While her crew were engaged in attempts to get her off, she was attacked by a flotilla of Tripolitan gun-boats, and as she lay much upon one side, they easily took a position in which not a gun of the frigate could be brought to bear upon them. Most of the guns were thrown overboard, and her anchors and foremast were cut away, but still she remained fast. Holes were then bored in her bottom and her pumps choked, after which, having stood the fire of the gun-boats all day, Bainbridge submitted to the disagreeable necessity of striking his flag. The Tripolitans, after great exertions, no American cruiser being there to molest them, succeeded in getting off the Philadelphia and towing her into the harbor. In Bainbridge and his crew of three hundred men, they held valuable prisoners for whom to demand ransom. The officers were treated with comparative indulgence, but the men were all reduced to slavery.

Oct. 17.

In the new Congress, called together by proclamation, the administration, strong enough before, had large accessions. In the Senate the Federalists had but nine members against twenty-five. Tracy and Hillhouse still represented Connecticut. Sheafe, of New Hampshire, had been succeeded by William Plumer. In place of the late senators from Massachusetts came Timothy Pickering and John Quincy Adams, representing the two sec-

tions of the Federal party in that state. Since his re-
turn from abroad, John Quincy Adams had opened a
law-office in Boston. Both he and Pickering had been
brought forward at the late election as candidates for the
House of Representatives, but had been beaten, though
by very small majorities, Pickering by Crowninshield,
and Adams by Eustis. Besides the six Federal sena-
tors from these states, there were two from Delaware,
and one (Dayton) from New Jersey. The administra-
tion had all the rest, including those from Rhode Island
and Vermont, and those also from the new State of Ohio.
The leading members on that side were De Witt Clinton,
of New York, who resigned early in the session in order
to accept the office of mayor of New York, being suc-
ceeded by Armstrong, lately his predecessor; Logan, of
Pennsylvania; Samuel Smith, of Maryland, so long an
active member of the other house; Wilson C. Nicholas,
of Virginia; Sumter, of South Carolina; Baldwin and
Jackson, of Georgia; and Breckenridge, of Kentucky.

In the other house the majority was not less over-
whelming. The new apportionment, by increasing the
number of backwoods members both positively and rela-
tively, had increased, at the same time, the administra-
tion majority. The five representatives from New Hamp-
shire and the seven from Connecticut were all Federal-
ists, also two of the four from Vermont, and ten out of
the seventeen from Massachusetts. Out of the seventeen
members from the State of New York, there were five
Federalists, including Joshua Sands, the ex-collector,
chosen as one of the two members to which, under the
new apportionment, the city became entitled. From
Maryland there were three Federalists out of nine; from
Virginia, four out of twenty-two; from North Carolina,
one out of twelve; from South Carolina, two out of

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eight—in all thirty-nine, while the administration had ninety-six, raised presently to one hundred and two by the members from New Jersey, whose election, on account of the expiration of the state law to regulate it, did not take place till near the end of the year. Bayard, the late leader of the Federalists, had lost his election, being defeated by Caesar A. Rodney, nephew of Caesar Rodney of the Revolution. Griswold, Dana, Davenport, and John Cotton Smith, of Connecticut, still retained their seats, and were the leading members on the Federal side. Of old Democratic members there were Varnum and Eustis, of Massachusetts; Dr. Mitchell, of New York; Leib, Gregg, Smilie, and Findley, of Pennsylvania; Nicholson, of Maryland; John Randolph, of Virginia; Macon, of North Carolina. Matthew Lyon, late of Vermont, now also re-appeared as a representative from Kentucky. Among the new members on that side were James Elliot, of Vermont; Jacob Crowninshield, of Massachusetts, from the Salem district—both the Boston and the Salem districts being now represented by Republicans; Oliver Phelps, the noted land speculator, and Erastus Root, of New York; James Sloan, of New Jersey; Joseph Clay, representing with Leib, the city and county of Philadelphia; and from Virginia, John W. Eppes and Thomas M. Randolph, sons-in-law of the president. Of the whole House considerably more than half were new members. Macon was chosen speaker, most of the Federalists, and some of the Northern Republicans, voting for Varnum.

The chief subject of the president's message was the cession of Louisiana. In announcing the recommencement of war between France and England, a determination was avowed to preserve the strictest neutrality.

The treaty and conventions with France were imme-

diately laid before the Senate, and after two days' discussion, their ratification was advised by that body. Of the Federal senators, only Dayton voted for it. John Q. Adams had not yet taken his seat. Bonaparte's ratification was already in the hands of Pichon, the French chargé des affaires, and, the ratifications being exchanged, the bargain became complete. The ratified conventions were immediately communicated to the House for consideration in their legislative capacity, with an intimation from the president that the co-operation of the House was needed to carry them into effect, and that time pressed for instant action. Griswold moved a call upon the president for a copy of the treaty between Spain and France upon which the title of France depended, and for any evidence he might have that Spain, in whose hands the ceded district still remained, was ready to deliver it over. Griswold urged that the treaty before the House recited only a provisional agreement on the part of Spain to cede Louisiana to France. There was no evidence that the cession had really taken place. Griswold's motion having failed by a majority of two votes, Randolph offered a resolution that provision ought to be made for carrying the treaty and conventions into effect. Upon this resolution a spirited debate arose. The Federalists denied any authority under the Constitution for receiving into the Union, whether by treaty or otherwise, a foreign people. They also criticised the special provisions as to the trade of France and Spain with Louisiana, as introducing an unconstitutional discrimination between different parts of the Union. The constitutionality of the treaty was zealously sustained by Randolph and others; but the question as to the power of Congress to vote money for the purchase was not mooted. It did not lay in the mouths of the Federalists to deny that

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power, and the Democratic leaders thought it best to keep their doubts to themselves. The resolution was adopted ninety to twenty-five, and the necessary bills were speedily passed. Nothing was ever said about any amendment of the Constitution to sanction this proceeding; and Jefferson's silence on that head must be considered as amounting to a recantation of the doctrine he had so zealously maintained against Hamilton—a recantation in which the whole Republican party joined, and which they reiterated by many subsequent votes.

June 16.

An act, originating in the Senate while the House was debating Randolph's resolution, authorized the president to take possession of the ceded territory, and to employ for that purpose the army of the United States, and such portions of the militia as might be found necessary. He was also authorized, till Congress should otherwise provide, to vest in such person as he might appoint all the authority appertaining, under the Spanish laws, to the officers of government, to be exercised under the president's direction, for maintaining the inhabitants in their freedom, property, and religion. A second act, originating in the House, authorized the creation of the stocks to be given to France, and appropriated toward the interest and principal an annual sum of \$700,000, thus raising the annual appropriation for the public debt to eight millions. A third act appropriated toward paying the merchants' claim the two millions voted at the last session toward the purchase of New Orleans, the remainder to be raised by a temporary loan.

Simultaneously with this provision for the claimants against the French government, the commissioners on illegal captures, sitting under the British treaty—the temporary articles of which just now expired—closed their labors, having awarded to American merchants about

six millions of dollars, all of which was duly paid by the British government. Deduct from this the amount at which the British debts were liquidated, also some small awards to British claimants for captures made by French privateers in American waters, and there still remained a balance of upward of three millions secured to the country by Jay's treaty; to which might be added other large sums recovered in the British courts by way of damages for illegal captures; also the restoration of many captured vessels and cargoes by the British Admiralty Court of Appeals. Add to these amounts the sum allowed by France as a deduction from the payment for Louisiana, and also the vessels and cargoes released under the convention of 1800, and we have an amount of from fifteen to twenty millions of dollars recovered, by the policy of the Federal party, from the clutch of the belligerents. What success the Republican party had in this same line we shall presently see.

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The State of Maryland derived a special pecuniary advantage from Jay's treaty in the recovery of upward of \$800,000 invested in Bank of England shares and other British stocks, and claimed to belong to the state as successor to the late province of Maryland. This fund originated in a deposit, long prior to the Revolution, in the hands of three London merchants as trustees of the interest received on certain loans of colony paper money, appropriated toward an accumulating fund for the redemption of that paper. No such redemption was ever made; and the paper, being continued in circulation by successive acts, finally depreciated to nothing, and disappeared in the general wreck of paper money toward the conclusion of the Revolutionary war. The fund meanwhile continued to accumulate by the addition of the interest on the stocks in which it was invested.

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Shortly after the peace of 1783, a bill in behalf of the State of Maryland had been filed in the English Court of Chancery against the trustees of the fund, one of whom set up as an offset a claim for private property of his, forfeited by the State of Maryland on the ground of absenteeism and adherence to the state's enemies. After fifteen years' litigation, the chancellor gave an informal opinion that the present suit, being brought in the name of an independent state, over which he had no jurisdiction, could not be sustained; that the stock had belonged to the province of Maryland, a corporation created by the crown; but that, as this corporation had been dissolved, the property escheated to the sovereign. Subsequently to this decision, claims were put forward by Harford, the late proprietary of Maryland, and others, who alleged themselves to have suffered on account of their loyalty by the confiscating acts, indemnification for which they claimed out of this fund. But as they had already received their share of the very generous sum voted by Parliament for the relief of the American Loyalists, the restoration of the whole amount to the State of Maryland was finally ordered—an instance of upright dealing rare enough as between man and man, and as between nations not easy to be paralleled.

Already, before the ratification had been exchanged, doubts and discussions had arisen as to the extent of territory embraced in the treaty with France. Was it Louisiana as claimed and held by the French prior to 1763, or was it Louisiana as that name had been understood subsequently to the Spanish possession? The words of the treaty, by no means precise, allowed room for either interpretation, the cession being described as including "the colony or province of Louisiana, with the same extent as it now has in the hands of Spain, and

that it had when France possessed it, and such as it should be after the treaties subsequently entered into between Spain and other states." As France originally possessed it, Louisiana included both banks of the Mississippi, extending east to the River Perdido, by which it had been separated from the Spanish province of Florida. As received by Spain, it was bounded on the east by the Lakes Pontchartrain and Borgne and the Mississippi River, the more eastern portions having been previously yielded up to Great Britain, under whose authority they had been erected, along with the country about Pensacola, ceded at the same time by Spain, into the English province of West Florida. By the treaty of 1783, the Floridas had been restored to Spain; but the division into an eastern and western province, first made by the English, had been still kept up; and West Florida, at the date of the late treaty of cession, still embraced all that territory south of the thirtieth degree of north latitude, and east of the Mississippi and the two lakes, which in former times had appertained to Louisiana. To allow this portion of the original Louisiana to remain in the hands of the Spaniards would be attended with many embarrassments; indeed, the obtaining of this very tract, together with the island of Orleans—thus securing the entire command of the Lower Mississippi, with a land communication between New Orleans and Natchez, and opening to the settlers on the Tombigbee an access to the Gulf through the port of Mobile—had been the only purchase contemplated by the American government.

Livingston, who had negotiated the treaty, strenuously argued that the cession included all Louisiana as originally claimed and possessed by France, except such parts, if any, as Spain might, by subsequent treaties, have yielded to other nations; and he strongly urged

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CHAPTER upon Jefferson to act upon this interpretation by taking
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1803. an interpretation was sure to be resisted by Spain. Indeed, any cession of any sort to the United States had been very disagreeable to that Court, as bringing the Americans too near to the Mexican provinces; so much so that Yrujo, the Spanish minister at Washington, had entered a solemn protest against the entire treaty. To employ force would be to adopt the policy recommended by the Federalists at the late session of Congress; and besides leading to embroilment with Spain, it might also operate to prevent the peaceable yielding up of New Orleans, still in possession of the Spaniards.

Dec. 10. Jefferson was therefore content to accept the formal delivery of the island and city of Orleans, made by Citizen Lausat, who had, as commissioner of France, received possession a few days before from the Spanish authorities, leaving the east bank of the lakes and of the river above in possession of the Spaniards. The commissioners on the part of the United States were General Wilkinson, since the disbandment of the additional regiments again the commander-in-chief of the army, and C. C. Claiborne, governor of the Mississippi Territory, appointed under the late act of Congress to the supreme and sole government of the new province. Wilkinson had with him several companies of Mississippi volunteers, also two or three companies of regulars, drawn from Fort Adams, just at the southwestern corner of the Mississippi Territory. A considerable militia force of volunteers from Tennessee had marched near four hundred miles along the new road through the Indian country from Nashville as far as Natchez; but as there proved to be no occasion for their services at New Orleans, they were stopped there, wheeled about, and marched

home. An early exercise of the absolute authority with which he was intrusted was the charter by Claiborne of the Bank of Louisiana, with a capital of \$600,000. CHAPTER
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Almost simultaneously with this emancipation of Louisiana from dependence on Europe, France lost her hold on Western St. Domingo, which thus became the second independent state in America. Rochambeau, with the remnant of the French, amounting to eight thousand men, driven into the town of Cape Français, was compelled to capitulate to the insurgent negroes, now commanded by Dessalines and Christophe. But Rochambeau having failed to comply with his stipulations, his people were only saved from total destruction by flying on shipboard, and throwing themselves into the hands of the English blockading squadron. The independence of Hayti was proclaimed; but protection was still promised to the white proprietors and inhabitants, and even to absentees who might return and behave in a peaceable manner. As the whites showed their sense of this clemency only by new intrigues against the black government, a new massacre and a new flight presently ensued, under a proclamation issued by Dessalines, upon whom the negro and mulatto generals had conferred the governor-generalship, and who presently declared himself emperor. The French authorities continued, however, to maintain themselves for some time longer in the eastern, the late Spanish part of the island, where the larger part of the population was white. Nov. 29
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The peaceful acquisition of Louisiana for so trifling a sum, securing to the rising settlements on the Western waters an uninterrupted river communication with the sea, the fear of losing which had been heretofore the occasion of so many jealousies and such serious embarrassments, was celebrated at Washington by a public dinner,

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given by the administration members of Congress to the president, vice-president, and heads of departments, and by similar festivals among the Republicans in different parts of the Union. This peaceful annexation, so characteristic of Jefferson's policy, was exultingly contrasted with the violent method of seizing New Orleans by force, recommended by the Federalists. The Federalists, however, were prompt to reply that the sum paid for Louisiana was just so much money thrown away, or, rather, was an unjustifiable douceur to France—the same in substance, with that for which Monroe, during his first embassy to that country, had been so zealous—since Bonaparte sold what he could not keep, and what the breach of the Spanish treaty as to the right of deposit, and other claims on that nation for spoliation on our commerce, would well have justified the United States in seizing without any payment at all. It was, they averred, no policy of Jefferson's, but the war in Europe, that had brought about the cession. The idea of obtaining the whole tract west of the Mississippi was, in fact, altogether too vast for Jefferson. Bonaparte had forced it upon him. Such an acquisition of territory seemed, indeed, to many, and Jefferson himself had serious doubt on the subject, to tend directly to the dissolution of the Union. The settlers west of the mountains had already more than once threatened to separate themselves from their Atlantic brethren, and to form an independent republic. Such threats, which had been very rife in Kentucky, and even in Western Pennsylvania during the Whisky Insurrection, had made a deep impression on Jefferson's mind. The Federalists foretold, and he feared, that the removal of all external pressure on the side of the Mississippi would precipitate this danger—an apprehension which time has completely ful-

sified, the crack having been proved to run in quite a different direction. Another objection, was seriously felt by many, and especially by the New England Federalists, the throwing open to emigration of such new and vast territories tending to increase an evil already sufficiently felt; the stripping of the old states of their inhabitants, and the dwarfing them in political importance.

Nor were these considerations without their weight in the arrangements adopted for the newly-acquired territory. By an act originating in the Senate, that territory was divided by a line drawn along the thirty-third parallel of north latitude, into two provinces. The province south of this parallel, named the Territory of Orleans, already possessed a population of 50,000 persons, of whom more than half were slaves. Within the last ten years the cultivation of the sugar-cane had been successfully introduced, in part by refugee planters from St. Domingo, and that, together with cotton, had already superseded the production of indigo, formerly the chief staple. So lucrative were these new branches of industry—the decreased product of St. Domingo making an opening in the sugar market, and cotton, under the increased demand for it by the English manufacturers, bringing to the producer twenty-five cents per pound—that the richer planters enjoyed incomes hardly known to American landed proprietors any where else north of the Gulf of Mexico. Of the white inhabitants the greater part were French Creoles, descendants of the original French colonists, but with an admixture of French, Spanish, and British immigrants. Under France the colonists had possessed hardly any political power; under Spain, none at all. With a cautious imitation of these models, which in Federalists would have been denounced as exceedingly anti-republican, the president was author-

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ized not only to appoint the governor and secretary of the new Territory, but annually to nominate the thirteen members who were to compose the legislative council. This provision, though strongly objected to, and struck out by the House as contrary to Democratic principles, was reinstated by the Senate, and, on the report of a committee of conference, was finally agreed to.

The laws of Louisiana, down to the period of the cession to Spain, had been, like those of Canada, the custom of Paris and the royal ordinances of France. The Spanish governor, on taking possession, among other very arbitrary acts, had issued a proclamation substituting the Spanish code, and such remained the law of the colony when it passed into the hands of the United States. This Spanish code, so far as it was not repugnant to the Constitution and laws of the United States, was continued in force, subject to such alterations as the new territorial Legislature might make. Under the Spanish system, the governor had been sole judge, being bound, however, to consult an assessor learned in the laws. The present act established, besides a District Federal Court, a Superior Territorial Court, to consist of three judges. The organization of inferior tribunals was left to the local Legislature. Trial was to be by jury in all capital cases; also in all other cases, civil as well as criminal, at the demand of either party. The writ of habeas corpus was secured to the inhabitants, and the privilege of giving bail, except in capital cases where a strong presumption of guilt appeared. Claiborne was still continued as governor of this new territory, the administration of his government of Mississippi being temporarily intrusted to the secretary. To New Orleans, already a city of seven or eight thousand inhabitants, a considerable immigration at once began. Among others who resorted thither

was Edward Livingston, who had lately become a defaulter to the government to a large amount, through the failure of a speculating friend, perhaps a partner, to whom he had inconsiderately trusted government money in his possession as attorney for the District of New York. The hope, finally realized, of finding, by new speculations in this wealthy and promising country, means for discharging his liabilities to the government, had induced his removal to this new territory, of which he ultimately became the legislator, or rather the codifier.

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All that region west of the Mississippi and north of the Territory of Orleans, was constituted by the same act into the District of Louisiana. It included one little village on the Arkansas, and several on or near the Mississippi, the principal of which was St. Louis. The white population of this region, embracing the present states of Arkansas, Missouri, and Iowa, had been somewhat augmented of late by immigrants from the old French villages on the other side of the Mississippi, and by Anglo American adventurers, who already outnumbered the French inhabitants. But the increase of this population, which did not exceed three or four thousand, was not considered desirable. It was proposed to reserve this region for the Indians; and the president was authorized to propose to the tribes east of the Mississippi an exchange of lands, and a migration on their part across the river—a policy since extensively carried out. Meanwhile the jurisdiction over the few white inhabitants, and nominally over the whole district, was annexed to the Territory of Indiana, thus made to include the whole region, west of the State of Ohio, and north of the Ohio River and the thirty-third degree of north latitude.

With the view of facilitating at the same time settlements east of the Mississippi, all those tracts to which

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the Indian title had been extinguished were directed, by another act, to be surveyed, and land-offices to be established at Detroit, Vincennes, and Kaskaskia. The public lands were henceforth to be offered for sale in quarter sections of a hundred and sixty acres, and, in case the installments of the price were punctually met, no interest was to be charged. Besides the reservation of salt-springs, and the sixteenth section in each township for the use of schools, an entire township was to be reserved in each district of survey toward a seminary of learning. By two treaties made at Vincennes somewhat later in the season with the Delawares and Piankeshaws, and a third at St. Louis with the Sacs and Foxes, Harrison, governor of Indiana and Indian commissioner, extinguished the Indian title to large additional tracts in that region. The Delawares and Piankeshaws, in consideration of some small additional annuities, ceded all the country south of a line from Vincennes to the falls of the Ohio at Louisville. The Sacs and Foxes, in consideration of an annuity in goods to the value of one thousand dollars, ceded a great tract on both sides of the Mississippi, of near eighty thousand square miles, extending on the east bank from the mouth of the Illinois to the head of that river, and thence to the Wisconsin; and including on the west a considerable part of the present State of Missouri, from the mouth of the Gasconade northward.

By another act, relating to the public domain, all the region south of the State of Tennessee was annexed to the Territory of Mississippi, which, as originally constituted, had been bounded on the north by a line stretching due east from the mouth of the Yazoo. Into this act an appropriation was inserted for exploring the newly-acquired Territory of Louisiana, and under it the expedition of Lewis and Clarke was presently undertaken

At the preceding session of Congress a memorial had been presented, accompanied by the proceedings of a convention of the people of Indiana, held at Vincennes, of which the object was to obtain a suspension, as to that territory, of the article of compact of the ordinance of 1787, prohibiting slavery north of the Ohio. A committee, to whom the memorial had been referred, and of which Randolph was chairman, had deemed it "highly dangerous and inexpedient to impair a provision wisely calculated to promote the happiness and prosperity of the North-western country, and to give strength and security to that extensive frontier;" and they had declared their belief that, "in the salutary operation of this sagacious and benevolent restraint, the inhabitants of Indiana would, at no distant day, find ample remuneration for a temporary privation of labor and immigration." This report, made just at the close of the late session, was referred at the present session, together with the papers on which it had been founded, to a new committee, of which Rodney, the new democratic representative of Delaware was chairman. That committee reported in favor of the qualified suspension of the prohibition of slavery, so as to admit, for ten years, the introduction of slaves born within the United States, their descendants to be free, males at the age of twenty-five, and females at twenty-one. On this report no action was had; but the subject, as we shall presently see, was not allowed to rest here, being repeatedly urged on Congress by the inhabitants of Indiana; and had the decision rested with them, both Indiana and Illinois would have come into the Union as slave states.

Early in the session, the annual convention of delegates from the various state societies for promoting the abolition of slavery, and improving the condition of the

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African race, then in session at Philadelphia, had presented a memorial praying Congress to prohibit the further importation of slaves into the newly-acquired region of Louisiana. This proposal bore a striking resemblance to the suggestions of Jefferson in his report to the Continental Congress on the western territory, embodied afterward in a somewhat more stringent shape into the ordinance of 1787. Consistency, and that special regard for the abstract rights of man which Jefferson always so loudly professed, might indeed have made it proper enough that this suggestion, instead of being left to the abolition societies, should have come from the president himself. But if Jefferson loved the rights of man, he loved popularity more; and he had early found that opposition to slavery was not the road to popularity. Ever since his return from Europe, he had observed on this point a cautious silence; and his efforts toward ridding his country of the curse which he had so eloquently denounced in his Notes on Virginia (not originally intended for publication, but for distribution among his European friends), had been limited to a few slight intimations in his confidential correspondence, of a hope that something to bring it about might some time be done by somebody. The memorial of the abolition convention was not, however, entirely without effect. It was referred to the Committee on the government of Louisiana, and a provision was inserted into the act organizing the Territory of Orleans, that no slaves should be carried thither except from some part of the United States, by citizens removing into the territory as actual settlers, this permission not to extend to negroes introduced into the United States since 1793.

The intention of this latter provision was to guard against the effect of a recent act of South Carolina re-

viving the African slave trade, after a cessation of it, as to that state, for fifteen years, and of six years as to the whole Union. Such a result of the triumph of democratical principles in South Carolina was rather shocking to some sincere Northern advocates of the rights of man; especially as it might open the way to the introduction of an indefinite number of slaves from Africa into the new territories of Mississippi and Orleans; and, to limit the evil as far as might be, and at the same time to express the sense of the nation upon it, Bard of Pennsylvania introduced a resolution to impose a tax of ten dollars on every slave imported.

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In opposing this resolution in Committee of the Whole, Lowndes apologized for the conduct of his state on the ground of an alleged impossibility of enforcing the prohibition. Such was the nature of their coast, deeply penetrated by navigable rivers, that the people of South Carolina, especially as they had stripped themselves of means by giving up to the general government the duties on imports, could not restrain their "Eastern brethren," who, in defiance of the authority of the general government, allured by the excitement of gain, had been engaged in this trade. The repeal had become necessary to remove the spectacle of the daily violation of the law.

All this was very ingenious; but when we consider that Congress, at its very last session, had inflicted additional and severe penalties of fine and confiscation on the persons and vessels employed in this trade, the effect of which there had not yet been time to test, there must have been, it would seem, other reasons besides mere disgust at the success of the smugglers, for this sudden triumph in South Carolina of the favorers of the African slave trade. And perhaps the increasing value of slave labor consequent on the increasing demand for cotton,

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by which the culture of indigo had been generally suspended, and the expectation that Charleston might become the entrepot for supplying slaves to the new territories of Mississippi and Orleans, had quite as much weight.

Lowndes added that, personally, he was opposed to the slave trade, and that he wished the time were already arrived when it might be constitutionally prohibited by act of Congress; but the imposition of the proposed tax, so far from checking the traffic, would, he thought, rather tend to its increase, by seeming to give to it a Congressional sanction. Another effect of the duty would be to lay so much additional and special taxation on South Carolina, which he thought very unjust.

Bard defended his resolution on two grounds. The proposed tax was a constitutional and fair source of revenue. Since the African slave trade made men articles of traffic, they must be subject to impost like other merchandise. The value of an imported slave being \$400, a duty of ten dollars was only two and a half per cent. on the value. While this duty would add to the revenue, it would also accomplish a more important end, by showing the world that the general government was opposed to slavery, and ready to exercise its powers as far as they would go for preventing its extension. "We owe it indispensably to ourselves," said Bard, "and to the world whose eyes are upon us, to maintain the republican character of our government." As additional reasons in favor of his resolution, he dwelt at length on the cruelty and immorality of the slave trade, and the danger of slave insurrections, of which St. Domingo had furnished so striking an example, and two or three alarms of which had recently occurred in Virginia.

Mr. Speaker Macon expressed the opinion that the

morality or immorality of the slave trade had nothing to do with the question before the House. "The question is not whether we shall prohibit the trade, but whether we shall tax it. Gentlemen think that South Carolina has done wrong in permitting the importation of slaves. That may be, and still this measure may also be wrong. Will it not look like an attempt in the general government to correct a state for the undisputed exercise of its constitutional power? It appears to be something like putting a state to the ban of the empire." Here was the germ of the argument afterward so zealously urged by Mr. Calhoun, and still in many mouths, but pushed much farther than Macon ventured to go. For we are now gravely told not only that the states, so long as they confine themselves to the exercise of constitutional rights, are to be secure from any direct interference, which nobody denies, but also that they are entitled to the direct countenance and support of the general government in everything which they are constitutionally entitled to do, even though they may see fit to adopt or to persevere in an obsolete, retrograde, barbarous course of policy, alike disastrous to themselves and disgraceful to the nation.

Lucas, of Pennsylvania, denied that South Carolina had any right to complain of the proposed duty. If she had the right, under the Constitution, to permit the importation, Congress, under the same Constitution, had the right to impose the tax. If she chose to exercise her constitutional authority, why complain of a like exercise of it on the part of Congress? If she wished to avoid paying the tax, let her prohibit the importation. Nor did he admit that, by taxing the importation, Congress legalized or countenanced the traffic. The importation was not legalized by Congress, but by South Carolina, Congress not yet having the power to prohibit it.

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The tax would tend to check a traffic which, in four years, might add a hundred thousand slaves to those already in the Union. The thirst for gain was more alive in the country than ever, and the opening of the trade by South Carolina would virtually amount to a general opening; for, African slaves once introduced into one state, would find their way into all others in which slavery was allowed.

Smilie wished to steer clear of the question of morality; at the same time, he could not but think that the whole Union had a direct interest in the measure adopted by South Carolina, inasmuch as it tended to weaken the common defense of the country. Every slave brought in must be regarded in the light of an imported enemy.

Stanton, of Rhode Island, insisted strenuously on the tax. Nor did he confine his reprobation to the foreign slave trade merely; he described, in very strong terms, his emotions at meeting, on his way to the seat of government, twenty or thirty negroes chained together and driven like mules to market.

The resolution was also supported by Findley, Dr. Mitchill, and Southard of New Jersey. The Southern members exhibited in this debate decidedly less of overbearing arrogance than on any former occasion on which the subject of slavery had come into discussion. Every body, even her own representatives, seemed to be ashamed of the conduct of South Carolina. But on this, as on most former occasions, the anti-slavery speeches came principally from the Pennsylvania members. Griswold, the leader of the Federalists, opposed the resolution on the old ground formerly taken by Sherman and Ames, and already suggested by Lowndes, that to derive a revenue from the African slave trade might seem to be giv-

ing it a certain countenance. But there is too much reason to believe, both in Griswold's case and that of his New England predecessors—since neither he nor they were at all fettered, in general, by captious scruples—that this was a mere decent pretext for not giving offense to South Carolina, which, perhaps, he might still hope to lure back to the Federal ranks. It was suggested, on the other side, by way of palliating this objection, that all the proceeds of the tax might be specially appropriated to purposes of humanity, such as might tend to alleviate the evil of slavery itself.

Randolph, the leader of the Virginia Democrats, indeed the acknowledged leader of the administration party in the House, was silent. Eppes, the son-in-law of Jefferson, zealously supported the resolution; and, notwithstanding an attempt at postponement, on the ground that perhaps South Carolina would re-enact her old prohibitory law, it was finally agreed to by the House, and was referred to a committee to bring in a bill. That bill was reported, read twice, and referred to a Committee of the Whole. But the entreaties of the South Carolina members, and their promises of what the state would do, arrested any further action.

Just previous to the commencement of this debate, New Jersey, the seventh and the last of the old confederation to do so, had joined the circle of the free states, by an act, passed by an almost unanimous vote, securing freedom to all persons born in that state after the fourth of July next following; the children of slave parents to become free, males at twenty-five, and females at twenty-one—a law which gave great satisfaction to Governor Bloomfield, who had been from the beginning a zealous member of the New Jersey society for the abolition of slavery. A new effort was also made in Penn-

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sylvania to hasten the operation of the old act for gradual abolition, by giving immediate freedom to all slaves above the age of twenty-eight years; but this attempt failed as before.

The New England Mississippi Company, successors, by purchase, to the Georgia Mississippi company, one of the four great companies to which the famous Yazoo sales of 1795 had been made, now appeared, by its agents, to solicit a settlement. These agents had been judiciously selected, one being Granger, the postmaster general, and the other Perez Morton, a leading Democrat of Massachusetts. This claim, however, encountered a virulent, and, for the present, a successful opposition from John Randolph. Having happened to be in Georgia on a visit during the agitation for the repeal of the Mississippi grants, he had espoused that side of the question with all the natural vehemency of his temperament. The corrupt means alleged to have been employed in obtaining the grants furnished a most congenial theme for his vituperative eloquence. The fact that a large share in these grants had ultimately passed, though at a very great advance, into the hands of New Englanders, his hatred toward whom was not less bitter than Jefferson's, furnished to his vindictive and spiteful soul ample reason, notwithstanding a claim equitable if not legal, why the government should never pay a farthing; in which Randolph was very warmly supported by Duane of the Aurora; for however far Randolph might be separated from Duane on the aristocratical side of his character, on the Jacobinical side there was a perfect sympathy and a very great similarity between them.

The proposal to amend the Constitution so as to give to the electors of president and vice-president the right of designating the candidates for those offices, though

supported by the legislative resolutions of several states, had failed to obtain in the last Congress the requisite majority of two-thirds. In this Congress it succeeded better ; though it required the speaker's vote to carry it through the House. The opposition was based on the alleged constitutional rights of the small states, whose weight in presidential elections would, it was thought, be diminished by the change. One of the Massachusetts members suggested, pending the debate, that if any change were to be made in the Constitution, the first thing to be done ought to be to strike out that provision which allowed slave property to be represented, thus adding eighteen extraneous members to the House, and eighteen to the number of presidential electors.

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The news of the capture of the Philadelphia by the Tripolitans having reached Washington, it led to an act by which all goods subject to ad valorem duties were to pay an additional two and a half per cent. during the continuance of hostilities in the Mediterranean, to constitute a fund to be exclusively applied to expenses occasioned by the Barbary powers. Two additional cruisers, of not more than sixteen guns each, were to be procured, and the president was also authorized to accept on loan, from any Mediterranean power, as many gun-boats as he might think proper ; toward which expenses, in addition to the produce of the new Mediterranean fund, a million of dollars were appropriated. The means thus provided, preparations were made for fitting out several additional frigates.

Simultaneously, almost, with the passage of this act, a bold exploit had somewhat repaired the credit of the American navy. Shortly after the loss of the Philadelphia, Preble, in the Constitution, accompanied by the Enterprise, commanded by Lieutenant Decatur, reconnoitred

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the harbor of Tripoli, and having communicated with Bainbridge, had put across to Syracuse. The capture by the *Enterprise*, on this passage, of a small Tripolitan vessel bound to Constantinople with a present of female slaves for the sultan, facilitated the execution of a project which Bainbridge had suggested, and which Preble had readily adopted, for destroying the *Philadelphia*, then refitting in the harbor of Tripoli. The immediate conduct of this operation was intrusted to Decatur, who assumed it with great zeal. The captured vessel was taken into service, and named the *Intrepid*. Manned by volunteers from the *Enterprise*, she sailed from Syracuse, escorted by the *Syren*, which had recently joined the squadron. The two vessels having made the Tripolitan offing, the

Feb. 16. *Intrepid*, as evening came on, favored by a light breeze, stood directly into the harbor. About midnight she began to approach the *Philadelphia*, directly toward which she steered, all but two or three of her crew lying flat upon the deck. Being hailed, the linguist answered that they were from Malta, on a trading voyage; and that, having lost their anchors in a late gale, they begged permission to make fast to the frigate's side for the night. This was agreed to, and the breeze meanwhile having died away, a boat was lowered, which assisted the *Intrepid's* boat in running lines to the frigate. So far all had passed without exciting the slightest suspicion; but just as the *Intrepid* touched the side of the *Philadelphia*, an alarm was raised by the Turks. The Americans, however, boarded in an instant, and the frigate's guard, after a moment's resistance, were driven over her opposite side, a few being killed, but most of them jumping into the water. With equal promptitude, combustibles, ready prepared, and of which the distribution had been arranged beforehand, were hurried on board, and in less

than half an hour the frigate was in a light blaze. Dried as she was by exposure to the sun, she burned with such rapidity that it was not without difficulty and danger that the Intrepid and her crew got themselves clear.

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. As the men put out their sweeps, it being a perfect calm, they raised a shout, which was answered by the guns of the batteries on shore and by the armed vessels at anchor inside. The burning frigate lighted up the whole harbor like day; and as the heat increased, her guns, which were loaded and shotted, began to explode. But the Intrepid swept on unharmed, till she reached the mouth of the harbor, where she found the boats of the Syren ready to aid in towing her off. A breeze soon sprung up, and both vessels sailed for Syracuse, where they were received by the American squadron with great exultation, shared also by the people of the town, the two Sicilies being then at war with Tripoli.

Almost the only important measure in which both sides of the House seemed heartily to concur was the repeal of the Bankruptcy Act. That act had been produced by the acknowledged necessity of some relief to a large number of embarrassed persons, including many men of energy and capacity, irretrievably involved by over-turbarious commercial hazards, by a course of desperate speculations in wild lands, by the depredations of the belligerents, or by the great commercial fluctuations which had attended the closing years of the late European war. But when the immense amount of debts thus contracted came to be exhibited, the nominal sum greatly swelled by the amounts due from one speculator to another, but not representing any real value; and when this vast sum of debts was contrasted with the very small amount of assets to meet it, a loud cry was

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raised against the law, as if that, somehow, had led to this discrepancy, or, at least, as if it held out an encouragement to rash speculation and fraudulent bankruptcy. Hence it was repealed by almost unanimous consent before there had been any chance to test its ordinary and regular operation. It is curious to remark that another Bankruptcy Act, which originated, many years after, under like circumstances, suffered precisely the same fate. But both had at least the advantage of sweeping off a great mass of hopeless debts, and of assimilating nominal to real values, much resembling, in that respect, some laws for the abolition of debts recorded in ancient history, which have proved great stumbling-blocks to many modern inquirers. It was one effect of the present repeal to throw back the subject of insolvency upon the state Legislatures. But state legislation upon this difficult subject was found hardly more satisfactory than that of Congress. It is, indeed, very hard to make up by legislation for the lack of individual honesty or judgment, or to furnish out of the empty coffers of bankrupts any liquidation of debts satisfactory to creditors.

Just at the close of the preceding Congress, the judge of the District Court of New Hampshire had been impeached before the Senate by order of the House. At the present session articles of impeachment were set up, charging him with a willful sacrifice of the rights of the United States in a certain revenue case tried before him, and also, generally, with drunkenness and profanity on the bench. The judge did not appear; but his son presented a petition, setting forth that his father was insane, and praying to be heard by counsel. This was granted, not without opposition, and several depositions were put in going to establish the fact of insanity. The reply was, that if insanity did exist, it had been occasioned by ha-

bitual drunkenness. The impeachment was sustained by a pure party vote, all the Federal senators in the negative, and the judge was removed from his seat.

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What excited a much greater interest was the impeachment against Judge Chase, of the Supreme Court, which, after a good deal of discussion and the taking of evidence, had been resolved upon by the Democratic majority of the House. Chase, notwithstanding the defeat of the Federal party, of which, of late years, he had been a very zealous member, was by no means disposed to forego the privilege of appending to his charges to the grand juries of his circuit such political disquisitions as the posture of affairs might seem to call for—a privilege claimed after the fashion of the English judges, and the exercise which, in Drayton's famous charge to the grand juries of South Carolina, just on the eve of the American Revolution, had elicited no little applause from the American patriots. In a recent charge to a Maryland grand jury, Chase had dwelt with indignant eloquence on the repeal by Congress of the late Judiciary Act, a proceeding, in his opinion, not consistent with the constitutional independence of that department. Thence he had passed to the late change in the Constitution of Maryland, dispensing with the property qualification of voters, which he thought likely to affect the security of property. He deprecated, also, certain other proposed amendments in relation to the state judiciary as tending to shake its independence. While very decided in the expression of his opinions, Chase, like M'Kean and John Adams, whom in many respects he much resembled, was also exceedingly able, and, of course, an object of terror as well as of hatred to his opponents. In hopes to get rid of him, a committee was appointed, on Randolph's motion, to investigate his official conduct. An impeach-

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ment had been resolved upon ; but to find plausible matter on which to rest it, five years had to be retraced, his conduct in the cases of Callender and Fries being selected by the committee as the most vulnerable points in his judicial administration.

The Federalists opposed the whole proceeding as a mere piece of party spite and vengeance. They alleged that, not content with the regular course of things, which had already given to the party in power one judge on the Supreme bench—William Johnson, of South Carolina, having been appointed in place of Moore, who had resigned—the design was prematurely to remove at least a majority of the present Federal incumbents. There were also some among the Republicans who thought that, however Chase's conduct might have been somewhat precipitate and overbearing, there existed no grounds for any formal proceedings against him. The majority, however, led by Randolph, decided otherwise ; an impeachment was voted ; and preparations were made for its prosecution at the next session.

This idea of impeachment for frivolous or insufficient causes, with a reliance upon party prejudice to make up any deficiency in the evidence, thus clearing the bench of obnoxious judges, was by no means original with Randolph. Like the proscription of office-holders for political opinions, to which it was the natural supplement, it had been derived from Pennsylvania, an example having lately been set there in the impeachment and removal from office of Addison, president judge of the Common Pleas for the Western District of that state. There were five such Common Pleas districts, for each of which there was a president judge, learned in the law, holding office under the state Constitution during good behavior, who held stated courts in all the counties of his district,

assisted in each county by a number of local associates, generally not lawyers. Of course, the leadership and management of business devolved mainly on the president judge. In one of the counties of Addison's district a certain Lucas had been appointed by M'Kean as county judge, an ignorant and self-sufficient man, who seemed to think that the vindication of Democratic principles rested on his shoulders. In charging a grand jury shortly after Lucas's appointment, Addison had seen fit to append to his charge certain observations about the alleged conspiracy of the Illuminati. Lucas felt called upon to reply; but his right to do so being questioned by Addison, he had at that time desisted. Having consulted with Breckenridge, who resided in the county, and who had an old feud with Addison, as, indeed, he seems to have had with most of the noted men on both sides of politics in that quarter, Lucas, at the next court, though Addison had then confined himself to mere matters of law, rose with a long written protest in his hand against the politics of the former charge, which, however, he was prevented from reading by Addison, with whom the other judges concurred. After attempting in vain to bring the matter before the Supreme Court, as if he had been illegally deprived of his right to address the jury, Lucas had complained to the Legislature, and out of this matter was made an article of impeachment against Addison. A second article was insolence toward his Democratic colleague, in having observed to a jury which Lucas had addressed in opposition to a previous charge given by Addison, that he, Addison, differed in opinion with that judge, and probably often should do so. Whether this remark had been volunteered, or whether it was not naturally drawn out by something which Lucas had previously said, the evidence left very doubtful.

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Upon these two charges Addison was impeached. The trial came on before a Senate in which the Republicans had, for the first time, an overwhelming majority (January, 1803). Incapable of conducting the prosecution themselves, the managers had the assistance of Dallas, and of the attorney-general, M'Kean, the governor's son. The respondent was constantly tripped up by the sharpest rules of evidence. Dallas displayed his usual talent in an artful appeal to the political prejudices of the senators. Addison replied with great ability, dignity, and pathos. His high qualifications, his integrity and devotion to the duties of his office, were confessed by the most respectable residents in the district, of both parties; but the certificates offered to that effect the Senate refused to hear read, even as a part of Addison's argument, though they had driven him to that resort by declining to allow him to bring witnesses at the public expense. They even refused to take the vote on the charges separately—the one amounting, at most, to an error of judgment, in which the other judges had concurred, and the other to a breach of politeness—but, lumping them together, found him guilty of both by a strict party vote, the sentence being removal from office, with incapacity to sit as a judge in any Pennsylvania court.

Such was the precedent which Randolph followed, and which was almost simultaneously acted upon by the Pennsylvania Assembly itself—in both branches of which there remained but six Federalists, one in the Senate and five in the House. This was an impeachment of three out of the four judges of the Supreme Court of that state, for alleged arbitrary conduct in committing to prison for contempt of court, one of the parties to a suit pending before them, who had made an abusive publication in the newspapers against the opposite party.

Breckenridge, the fourth judge, happened to be absent at the time of the committal, and so was not embraced in the impeachment. Choosing, however, not to separate himself from his brethren, he sent a letter to the Assembly declaring his full concurrence in the course taken by the other judges, and desiring to share their fate; to which the House replied by addressing the governor for his removal on a charge of insolence to them, and neglect of his duty by frequent absence from the bench. The harmony between M'Kean and the Democratic majority of the Legislature having by this time come to an end, he neglected to comply with their request. He by no means concurred with their projects for legal reforms, sufficiently needed, but which they did not well understand how to make. They seemed to entertain the idea that if trials by jury could be got rid of, lawyers might also be dispensed with; and with that view they had passed an act substituting referees in civil cases instead of juries, and prohibiting the employment of counsel. M'Kean had put his veto on this act as unconstitutional, as well as upon another, which was passed in spite of him, giving a greatly extended jurisdiction to justices of the peace; from which moment there sprang up between him and the Assembly a violent quarrel, which presently reached a great height, and in the course of which the governor found himself bitterly assailed by his late ally, Duane.

The chief supporter of Duane in this foray upon M'Kean was Dr. Leib, always intimately connected with the Aurora. To meet it, a new paper was set up, called the Freeman's Journal, in which Tench Coxe, once a large contributor to the Aurora, took up the pen for the governor. The battle was carried on with great fury, the combatants principally urging against each other

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charges which, when formerly brought forward by the Federalists, they had seemed to think of little weight. Coxe was charged with having been a Tory in the Revolution, and with piloting the British army into Philadelphia; with having betrayed Hamilton's confidence when in office under him; with being "a snake in the grass, a Jesuit whom every one doubted and no one could trust." Leib was accused of disgraceful fraud in a private pecuniary affair—an accusation brought forward by the Federalists several years before, but which the Democrats then thought of no great consequence. As Coxe held the office of Purveyor of Supplies under the Treasury Department, Gallatin came in for his share of abuse as prostituting the patronage of the treasury "to the establishment of a third party on the ruins of the Republican interest." A very earnest effort was made by the new paper to defeat Leib's re-election to Congress, but this totally failed of success.

Ever since the removal of the seat of government to Washington, the members of Congress had found themselves very uncomfortably situated. The public buildings were separated from each other by "magnificent distances," while accommodations for domestic comfort continued very few, and those for social intercourse still fewer. The project of removing somewhere else till the infant city had reached a greater maturity, started in the last Congress, much to the alarm of the proprietors of city lots, was renewed in this. A majority were ready enough to remove; but the question where to go proved an insurmountable difficulty. A concentration of the public buildings was also proposed, by taking the president's house for the accommodation of Congress, and building him another near by, on a more economical and republican plan. This sensible proposition, which would

have added so much to the public comfort and convenience by creating at once a compact little town, failed to be adopted ; and \$50,000 were appropriated toward the completion of the south wing of the Capitol, much of the work on which already done was so imperfect that it had to be taken down and rebuilt. Such was the commencement of a series of annual appropriations, gradually increasing in amount, for the completion and sustentation of the public buildings at Washington.

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Just at the close of the session, at a caucus of the administration members, about which, now for the first time, no secret was made, Jefferson was unanimously nominated as a candidate for re-election. The principal object of the caucus was to select a candidate for the vice-presidency. Burr never had much political strength out of New York, and even there he had been denounced as a traitor by the more influential Republican leaders and presses. Indeed, he had all along been an object of suspicion and terror to the Virginia politicians, as a man whose energy, enterprise, and audacity would never allow him to rest content with a subordinate position. For him, by a private arrangement among a few leaders, was substituted George Clinton, now very willing to accept the second station as a stepping-stone to the first, while the Virginia aspirants saw in him a rival far less dangerous than Burr. The selection, however, was not unanimous, nor was it brought about without considerable maneuvering. Already a cry was raised against Virginia dictation. Clinton received in the caucus sixty-seven votes ; twenty were given for Breckenridge, mostly by members from the West ; nine for Lincoln, the attorney general ; seven for Langdon ; four for Granger, the post-master general ; and one for M'Clay, of Pennsylvania.

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Of course it would be necessary for the administration party, at the approaching election for governor of New York, to find a new candidate in Clinton's place. At a caucus of Republican members of the Legislature, Chancellor Lansing had been nominated. He accepted; but a few days after declined, having found out, as he subsequently stated, that it would be expected of him, as governor, to be the mere tool of the Clintons. The candidate named in his place was Chief-justice Lewis, not so remarkable for talent that he would have been likely, but for his connection with the Livingston family, to have attained to much political eminence.

Though proscribed by his political rivals, Burr was not without adherents, most of them young men, ardent and ambitious, many of them unscrupulous like himself, and all impatient of the domination of the Clintons and Livingstons, and anxious to come in for their share of political honors and profits. This was Burr's last chance. Not only were his political fortunes in a very doubtful condition, but his pecuniary affairs had been reduced to a state of great disorder and ruin by unsuccessful speculations. Yet he was not altogether without prospect of success. In the interval between Lansing's declination and Lewis's nomination, he was brought forward, by public meetings of his friends held at New York and Albany, as an independent candidate. The Federalists were too much broken to have any reasonable prospect of choosing a candidate of their own, and, could they be induced to vote for him, he might be elected.

While these political intrigues were in progress, a case came on for argument before the Supreme Court of New York, then sitting at Albany, in which the rights and freedom of the press were deeply involved. Ambrose Spencer, as attorney general, had instituted a prosecu-

tion for libel against a Federal printer for having asserted that Jefferson had paid Callender for traducing Washington and Adams. The case had been tried before Chief-justice Lewis, who had held, among other things, that in a criminal trial for libel the truth could not be given in evidence, and that the jury were merely to decide the fact of publication, the question belonging exclusively to the court whether it were a libel or not. These points coming on for a rehearing before the Supreme Court on a motion for a new trial, Spencer maintained with great zeal the arbitrary doctrines laid down by Lewis. Hamilton, a volunteer in behalf of the liberty of the press, displayed, on the other side, even more than his wonted eloquence and energy, denouncing the maxim "the greater the truth the greater the libel," at least in its relation to political publications, as wholly inconsistent with the genius of American institutions. The court, after a long deliberation, was equally divided, Kent and Thompson against Lewis and Livingston. The opinion of the chief justice stood as law; but Hamilton's eloquence was not lost. A declaratory bill, conforming to the doctrine maintained by him, was introduced into the Assembly, then sitting, by a Federal member. The Republicans shrank from this implied censure on their candidate for governor, and the matter was postponed to the next session. An act allowing the truth to be given in evidence, was then passed, but was defeated by the Council of Revision, composed of the judges and chancellor. The act, however, with some modifications, became law the next year; and such, either by constitutional provisions, legislative enactment, or the decisions of the courts, is now the law throughout the United States.

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Hamilton's opinion of Burr, so emphatically expressed

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three years before, had undergone no alteration. At a Federal caucus held at Albany, he warmly opposed the project, favored by a large portion of the party, of giving him support. He took no active part himself in the canvass, but his opinions were freely quoted by those who did. Burr carried the city of New York, by a small majority, but failed in the state, having received but 28,000 votes to 35,000 for Lewis. The chief-justiceship, which became vacant by the promotion of Lewis, was given to Kent, the senior associate justice—a departure from party discipline not agreeable to Clinton nor to Spencer, appointed to Kent's seat; for Kent, though very learned as a lawyer, was a Federalist.

Burr, disappointed, and all his hopes blighted, as he believed, by Hamilton's instrumentality, became eager for vengeance. Humiliating was the contrast between himself and Hamilton, to whom, in his anger, he was ready to ascribe, not his political defeat merely, but his blasted character also. Hamilton, though fallen from his former station of commanding influence in the conduct of affairs, still enjoyed the unbounded confidence of a party, outnumbered, indeed, but too respectable to be despised; while, of his bitterest opponents, none, with any pretensions to character or candor, doubted his honor or questioned his integrity. Burr, on the other hand, saw himself dis-trusted and suspected by every body, and just about to sink alike into political annihilation and pecuniary ruin. Two months' meditation on this desperate state of his affairs wrought up his cold, implacable spirit to the point of risking his own life to take that of his rival. He might even have entertained the insane hope—for, though cunning and dexterous to a remarkable degree, he had no great intellect—that, Hamilton killed or disgraced, and thus removed out of the way, he might yet retrieve his desperate fortunes.

Among other publications made in the course of the late contest were two letters by a Dr. Cooper, a zealous partisan of Lewis, in one of which it was alleged that Hamilton had spoken of Burr as a "dangerous man, who ought not to be trusted with the reins of government." In the other letter, after repeating the above statement, Cooper added, "I could detail to you a still more despicable opinion which General Hamilton has expressed of Mr. Burr." Upon this latter passage Burr seized as the means of forcing Hamilton into a duel. For his agent and assistant therein he selected William P. Van Ness, a young lawyer, one of his most attached partisans, and not less dark, designing, cool, and implacable than himself. Van Ness was sent to Hamilton with a copy of Cooper's printed letter and a note from Burr, insisting upon "a prompt and unqualified acknowledgment or denial of the use of any expressions which would warrant Cooper's assertions."

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Perfectly well acquainted both with Burr and Van Ness, and perceiving as well from Van Ness's conversation as from Burr's note a settled intention to fix a quarrel upon him, Hamilton declined any immediate answer, promising a reply in writing at his earliest convenience. In that reply he called Burr's attention to the fact that the word "despicable," however in its general signification it might imply imputations upon personal honor as to which explanations might be asked, yet, from its connection, as used in Dr. Cooper's letter, it apparently related merely to qualifications for political office, a subject, as nothing was said about the more definite statement referred to in the same letter, as to which it seemed to be admitted that no explanation was demandable. He expressed a perfect readiness to avow or disavow any specific opinion which he might be charged with

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having uttered; but added that he never would consent to be interrogated generally as to whether he had ever said anything in the course of fifteen years of political competition to justify inferences which others might have drawn, thus exposing his candor and sincerity to injurious imputations on the part of all who might have misapprehended him. "More than this," so the letter concluded, "can not fitly be expected from me; especially, it can not be reasonably expected that I shall enter into any explanations upon a basis so vague as that you have adopted. I trust, on more reflection, you will see the matter in the same light. If not, I can only regret the circumstance, and must abide the consequences."

June 21.

Burr's curt, rude, and offensive reply began with intimating that Hamilton's letter was greatly deficient in that sincerity and delicacy which he professed so much to value. The word despicable, in the common understanding of it, implied dishonor. It having been affixed to Burr's name upon Hamilton's authority, Hamilton was bound to say whether he had authorized it, either directly, or by uttering expressions or opinions derogatory to Burr's honor. From this letter, it was apparent, and it was subsequently distinctly stated by Van Ness, that what Burr required was a general disavowal on the part of Hamilton of any intention, in any conversation he might ever have held, to convey impressions derogatory to the honor of Burr.

Granting Burr's right to make this extraordinary inquiry into Hamilton's confidential conversations and correspondence, it would have been quite out of the question for Hamilton to make any such disavowal. His practice as a lawyer had given him full insight into Burr's swindling pecuniary transactions, and he had long regarded him, in his private as well as his political char

acter, as a consummate villain, as reckless and unprincipled as he was cool, audacious, and enterprising—an opinion which he had found frequent occasion to express more or less distinctly while warning his Federal friends against the arts of Burr. Desirous, however, to deprive Burr of any possible excuse for persisting in his murderous intentions, Hamilton caused a paper to be transmitted to him, through Pendleton, a brother lawyer, who acted as his friend in this matter, to the effect that, if properly addressed—for Burr's second letter was considered too insulting to admit of a reply—he should be willing to state that the conversation alluded to by Dr. Cooper, so far as he could recall it, was wholly in relation to politics, and did not touch upon Burr's private character; nor should he hesitate to make an equally prompt avowal or disavowal as to any other particular and specific conversation as to which he might be questioned.

But as Burr's only object was to find a pretext for a challenge, since he never could have expected the general disavowal which he demanded, this offer was pronounced unsatisfactory and a mere evasion; and again, a second time, disavowing in the same breath the charge made against him of predetermined hostility, Burr requested Van Ness to deliver a challenge. Even after its delivery, Hamilton made a further attempt at pacific arrangement in a second paper, denying any attempt to evade, or intention to defy or insult, as had been insinuated, (with particular reference to the closing paragraph of Hamilton's first letter,) in Burr's observations, through Van Ness, on Hamilton's first paper. But this second paper Van Ness refused to receive, on the ground that a challenge had been already given and accepted. It was insisted, however, on Hamilton's part, as the Federal Circuit Court was in session, in which he had many

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important cases, that the meeting should be postponed till the court was over, since he was not willing, by any act of his, to expose his clients to embarrassment, loss, or delay.

It was not at all in the spirit of a professed duellist, it was not upon any paltry point of honor, that Hamilton had accepted this extraordinary challenge, by which it was attempted to hold him answerable for the numerous imputations on Burr's character bandied about in conversation and the newspapers for two or three years past. The practice of duelling he utterly condemned; indeed, he had himself already been a victim to it in the loss of his eldest son, a boy of twenty, in a political duel some two years previously. As a private citizen, as a man under the influence of moral and religious sentiments, as a husband loving and loved, and the father of a numerous and dependent family, as a debtor honorably disposed, whose creditors might suffer by his death, he had every motive for avoiding the meeting. So he stated in a paper which, under a premonition of his fate, he took care to leave behind him. It was in his character of a public man; it was in that lofty spirit of patriotism, of which examples are so rare, rising high above all personal and private considerations—a spirit magnanimous and self-sacrificing to the last, however in this instance uncalled for and mistaken—that he accepted the fatal challenge. “The ability to be in future useful,” such was his own statement of his motives, “whether in resisting mischief or effecting good in those crises of our public affairs which seem likely to happen, would probably be inseparable from a conformity with prejudice in this particular.”

With that candor toward his opponents by which Hamilton was ever so nobly distinguished, but of which so very seldom, indeed, did he ever experience any return, he disavowed in this paper, the last he ever wrote, any

disposition to affix odium to Burr's conduct in this particular case. He denied feeling toward Burr any personal ill will, while he admitted that Burr might naturally be influenced against him by hearing of strong animadversions in which he had indulged, and which, as usually happens, might probably have been aggravated in the report. Those animadversions, in some cases, might have been occasioned by misconstruction or misinformation; yet his censures had not proceeded on light grounds nor from unworthy motives. From the possibility, however, that he might have injured Burr, as well as from his general principles and temper in relation to such affairs, he had come to the resolution which he left on record, and communicated also to his second, to withhold and throw away his first fire, and perhaps even his second; thus giving to Burr a double opportunity to pause and reflect.

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The grounds of Weehawk, on the Jersey shore, opposite New York, were at that time the usual field of these single combats, then, chiefly by reason of the inflamed state of political feeling, of frequent occurrence, and very seldom ending without bloodshed. The day having been fixed, and the hour appointed at seven o'clock in the morning, the parties met, accompanied only by their seconds. The barge-men, as well as Dr. Hosack, the surgeon mutually agreed upon, remained, as usual, at a distance, in order, if any fatal result should occur, not to be witnesses. The parties having exchanged salutations, the seconds measured the distance of ten paces; loaded the pistols; made the other preliminary arrangements; and placed the combatants. At the appointed signal, Burr took deliberate aim, and fired. The ball entered Hamilton's side, and as he fell his pistol too was unconsciously discharged. Burr approached him apparent- July 11.

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ly somewhat moved ; but on the suggestion of his second, the surgeon and barge-men already approaching, he turned and hastened away, Van Ness coolly covering him from their sight by opening an umbrella. The surgeon found Hamilton half lying, half sitting on the ground, supported in the arms of his second. The pallor of death was on his face. "Doctor," he said, "this is a mortal wound ;" and immediately fainted, as if overcome by the effort of speaking. As he was carried across the river the fresh breeze revived him. His own house being in the country, he was conveyed at once to the house of a friend, where he lingered for twenty-four hours in great agony, but preserving his composure and self-command to the last.

The news of his death, diffused through the city, produced the greatest excitement. Even that party hostility of which he had been so conspicuous an object was quelled for the moment. All were now willing to admit that he was not less patriotic than able, and that in his untimely death—for he was only in his forty-eighth year—the country had suffered an irreparable loss. The general feeling expressed itself in a public ceremony, the mournful pomp of which the city had never seen equalled. A funeral oration was delivered in Trinity Church by Gouverneur Morris, at whose side, on the platform erected for the speaker, stood four sons of Hamilton, between the ages of sixteen and six. Morris briefly recapitulated Hamilton's public services and noble virtues—his purity of heart, his rectitude of intention, his incorruptible integrity. "I charge you to protect his fame!" he added; "it is all that he has left—all that these orphan children will inherit from their father. Though he was compelled to abandon public life, never for a moment did he abandon the public service. He never lost sight of

your interests. In his most private and confidential conversations, the single objects of discussion were your freedom and happiness. You know that he never courted your favor by adulation or the sacrifice of his own judgment. You have seen him contending against you, and saving your dearest interests, as it were, in spite of yourselves. And you now feel and enjoy the benefits resulting from the firm energy of his conduct. He was charged with ambition, and, wounded by the imputation, he declared, in the proud independence of his soul, that he never would accept of any office unless, in a foreign war, he should be called on to expose his life in defense of his country. He was ambitious only of glory; but he was deeply solicitous for you. For himself he feared nothing; but he feared that bad men might, by false professions, acquire your confidence, and abuse it to your ruin."

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In Hamilton's death the Federalists and the country experienced a loss second only to that of Washington. Hamilton possessed the same rare and lofty qualities, the same just balance of soul, with less, indeed, of Washington's severe simplicity and awe-inspiring presence, but with more of warmth, variety, ornament, and grace. If the Doric in architecture be taken as the symbol of Washington's character, Hamilton's belonged to the same grand style as developed in the Corinthian—if less impressive, more winning. If we add Jay for the Ionic, we have a trio not to be matched, in fact, not to be approached in our history, if, indeed, in any other. Of earth-born Titans, as terrible as great, now angels, and now toads and serpents, there are every where enough. Of the serene and benign sons of the celestial gods, how few at any time have walked the earth!

When the correspondence which preceded the duel came to be published, the outburst of public indignation

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against Burr was tremendous. He was regarded as no better than a deliberate murderer, who had artfully contrived to entrap his victim. The desperate duel, two years before, between John Swartwout and De Witt Clinton; another duel, the last year, between Robert Swartwout, a brother of John, and Richard Riker, an active Clintonian partisan, in which Riker had been severely wounded, were coupled with the challenge to Hamilton as parts of one connected system of cool-blooded and murderous intimidation. Burr was charged by Cheetam, of the American Citizen, with having practised pistol-shooting for three months before the challenge, with having gone to the field clothed in silk, as a partial sort of armor, and with having, while Hamilton lay on the bed of death, mirthfully apologized to his intimates for not having shot him through the heart.

Astonished at the torrent of indignation which poured down upon him, and fearing an arrest, after concealing himself in New York for two or three days, he passed stealthily through New Jersey, and sought refuge in Philadelphia, where he found shelter and hospitality from the district attorney, Dallas. The coroner's inquest, after a long sitting and some difficulty in obtaining evidence—some of Burr's friends allowing themselves to be imprisoned rather than to testify—returned a verdict of willful murder by the hand of Aaron Burr. A bill of indictment for that crime was found against him in New Jersey, where the duel had been fought; while the grand jury of New York found bills as well against him as against the two seconds for being concerned in sending and receiving a challenge—an offense punishable, by a recent act of that state, with disfranchisement and incapacity to hold office for twenty years. Apprehending that his person might be demanded of the governor of

Pennsylvania, Burr privately embarked for Georgia, "merely," so he wrote to his daughter, who was married to a South Carolina planter, "to give a little time for passions to subside, not from any apprehensions of the final effects of proceedings in courts of law." But the impression made upon the public mind by this fatal duel did not subside so easily; the absurdity of the sacrifice of a life like Hamilton's to the "honor" of a profligate like Burr was too gross; and a strong impulse was thus given to that growing sentiment of civilized common sense which has nearly extirpated the practice of duelling throughout the free states of America.

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The blockade of Tripoli was kept up during the earlier part of the summer by the smaller vessels of the squadron, and one or two captures were made. Later in the season, having borrowed two bomb-ketches and several gun-boats of the Neapolitan government, Preble attacked the harbor of Tripoli, which was well defended by heavy batteries, and by gun-boats and small armed vessels. After some very desperate fighting, hand to hand, in which Decatur figured conspicuously, two of the Tripolitan gun-boats were sunk, and three others taken. The attack was renewed a few days after, but on the arrival of the John Adams, fitted out as a store-ship, with news that a squadron from America might be immediately expected, it was suspended to wait for these fresh ships. Meanwhile a negotiation was entered into with the Bashaw; but as he still demanded \$500 per head for his captives, no arrangement could be made. As the expected squadron failed to appear, two more attacks were made by Preble, the Constitution ranging alongside the batteries, and bombarding them and the town with good effect. The Intrepid was also fitted as

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In the choice of electors of president and vice-president, the Democrats—for by that name the Republican party, at least throughout the Northern States, began now very generally to be called—succeeded even beyond their hopes. April 16. A letter of Jefferson's to Granger intimates that early in that year, some scheme was contemplated for a coalition between the Federalists and Republicans of the seven Eastern States (such as took place twenty years later), to shake off the Virginia ascendancy, of which bitter complaints began to be uttered by some of the Democrats ; a feeling extending also to Kentucky, as appeared from Matthew Lyon's publication in the Kentucky Palladium. This ascendancy was the burden of many able articles in the Boston Repertory, the chief organ of the Essex Junto ; and the Massachusetts Legislature had recently shown their sense of the matter by proposing for the consideration of the sister states an amendment of the Federal Constitution—the same suggested in the House by a Massachusetts member in the

debate on the amendment respecting electors of president—to deprive slave property of any representation on the floor of Congress.

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This projected coalition, of which Burr's attempt to be chosen governor of New York was no doubt a part, had no result. The idea of it was probably based, in part, on the expected failure of the proposed amendment in relation to the election of president and vice-president; and it was therefore rendered doubly hopeless, as well by the defeat and total prostration of Burr, as by the adoption of that amendment by precisely the constitutional number of states—Massachusetts, Connecticut, New Hampshire, and Delaware in the negative. Among other objections urged in these states was this: that the amendment ought to have been recommended by two thirds of all the members of both houses, whereas the recommendation came in fact from a bare two-thirds of those present and voting.

The hold of the Federalists even on New England seemed about to part. The Republican party in Massachusetts had strenuously insisted on a choice of presidential electors by the people and by districts. The Federalists, who had a small majority in the Legislature, consented to give the choice to the people, but they insisted on a general ticket, hoping thus to secure the whole. To their infinite mortification, and greatly to the surprise even of the Republicans themselves, the Jeffersonian electoral ticket triumphed by a small majority. The same thing happened in New Hampshire, where the Republicans at the spring election had carried both branches of the Legislature, though Gilman, the Federal governor, had been re-elected by a majority of forty-four votes out of twenty-four thousand.

Connecticut still stood firm; but the Republican mi-

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nority, upheld by the patronage of the general government, had greatly increased in numbers, and was exceedingly busy ; so much so as to excite no little alarm among the friends of "steady habits." At the head of the Republicans in that state was Pierrepont Edwards, lately appointed district judge, a son of the celebrated theologian, and maternal uncle of Burr, whom he resembled as well in accomplishments and address as in profligacy of private character, at least in whatever related to women. The favorite project of the Connecticut Republicans was a Convention to frame a Constitution. The old charter of Charles II., in accordance with which the government continued to be carried on, was, according to them, no Constitution at all. Candor, at the same time, would have demanded the admission, that in no other state except Vermont, which had copied largely from Connecticut, and Rhode Island, of which the government rested on a similar royal charter, was the appeal to the popular vote so often and so generally made. A convention of Republican delegates at New Haven, called together by

May. 29. Edwards, had put forth an address to the people, which intimated that the existing government was a mere usurpation, and in which the necessity of framing a Constitution was warmly urged. The General Court of Connecticut took fire at this attack on their authority, and removed from office five of the signers, who, as justices of the peace, held their places at the pleasure of the Assembly—an act denounced by the Democratic papers throughout the country as a great piece of intolerance characteristic of Federalism and Connecticut. Yet why more intolerant than the removal of Federalists from office, so thoroughly carried out in all the Democratic states, does not very distinctly appear.

The Federalists had also regained their ascendancy

in Delaware, where Nathaniel Mitchell had been chosen governor. Besides the Federal electors in this state and Connecticut, two more were chosen in Maryland, where the district system was still maintained. Such was the whole of the lean minority, fourteen in all, which the Federalists were able to muster.

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Conformity to Jefferson's own principles, and to his opinions repeatedly expressed, would have required him to retire at the close of his first term; and, as things turned out, far better would it have been for his reputation to have done so. But he found a ready excuse for a second term in the "unbounded calumnies of the Federal party," which obliged him "to throw himself on the verdict of his country for trial." That verdict, as declared by the result of the election, was enough to flatter any man's vanity.

The peaceful acquisition of Louisiana; the curtailments in the public expenses; the prosperous state of the finances leaving every year an increasing surplus; the vast extension, since the renewal of hostilities between France and England, of American trade, as yet but little disturbed by the belligerents, seemed palpably to give the lie to the gloomy predictions of the Federalists that the new administration and the Democratic party were not competent to carry on the government with credit and success. The country had reached a pitch of pecuniary prosperity never known before. The number of banks, which in 1802 was thirty-three, or thirty-nine, including the six branches of the United States Bank, with capitals amounting to twenty-four millions, had since considerably increased. The Bank of Philadelphia, the third state bank in that city, had lately been chartered, with a capital of two millions, paying the state \$135,000 in cash as a bonus for the charter, besides

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other pecuniary inducements. Even Virginia had introduced the banking system by the charter of the Bank of Virginia at Richmond. Many insurance companies had been formed, and others for the construction of roads and bridges. Since the adoption of the Federal Constitution, the export of domestic produce had tripled in value, having reached the amount of forty-two millions. A trade to a much greater nominal amount, and rapidly increasing, was carried on in the import and export of foreign produce, exclusively for the supply of foreign nations, on which very large profits were made. With all this Jefferson's policy had nothing to do. But as governments are often held responsible for pecuniary distresses over which they have no control, so they often get credit for a public prosperity growing entirely out of extraneous causes. Already, however, a dismal cloud, no bigger at this moment than a man's hand, began to lower in the eastern horizon.

Though few depredations, as yet, had been committed by the belligerents, some of the inconveniences necessarily attending a war on the ocean began to be felt. The presence of English and French ships of war in the harbors of the United States, and the angry collisions to which their hostility to each other and their interferences with American shipping gave rise, called loudly for some effectual means of keeping them in order, especially as the commanders of these vessels did not hesitate to set the civil powers of the states at defiance. On the part of the British, the practice had been renewed with the war of impressment from American vessels on the high seas, in foreign harbors, and even on the very coast of the United States. Professedly these impressments were limited to British seamen serving on board American vessels; and generally it was so. But it was not on that

account any the less annoying to the prevalent party in America, influential with which were so many persons of foreign origin, who insisted upon it as a point of national honor that American letters of naturalization should supersede and extinguish all other obligations.

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Toward the close of Adams's administration, Marshall, as Secretary of State, had very seriously pressed upon the British ministry an arrangement of this subject, so fruitful of irritation. After the peace of Amiens the negotiation had flagged; but when a new war was seen to approach, King had again brought it up, and with a flattering prospect of success. The outrage of seizing native-born American seamen and compelling them to serve in British ships of war was too flagrant to be palliated; yet this was constantly liable to happen, so long as careless and unscrupulous press-gangs, and captains of ships of war eager to fill up their crews, possessed the right to take any body from American vessels. Such a practice, giving occasion, as it did, to constant and cruel wrongs and irritating collisions, was utterly inconsistent with solid peace and friendship between the two nations. Just before leaving London on his return to America, King so far prevailed with Admiral Lord St. Vincent (Sir John Jarvis), then at the head of the British Admiralty, that he consented to an agreement for five years that neither nation should take any seamen out of the ships of the other on the high seas, both nations contracting to prohibit, under heavy penalties, the carrying away from the ports of the other seamen not natives of the country to which the ship belonged. But, when the agreement came to be signed, not content with the right thus left of visitation and impressment as to all American vessels in any British harbor, St. Vincent claimed to except the narrow seas also, that is, the

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seas surrounding England, "they having been immemorially considered to be within the dominion of Great Britain." Such a pretension had indeed been set up in former times, and the Dutch, on sundry occasions, had been compelled to submit to it. But, rather than sanction any such obsolete pretense, or submit to such a curtailment of the original agreement, King preferred to let the whole matter drop. Destitute as the United States then were of means of compulsion short of the total sacrifice of their whole foreign commerce, which alone made the question of impressment of any consequence, it would, perhaps, have been the better policy to secure what was obtainable. But, well knowing that Jefferson would ratify no such agreement, King did not choose to expose himself to the obloquy of making it.

There had been some attempts to legislate on this subject at the last session, bills in relation to it having been introduced into both houses of Congress. But, now that the responsibility rested upon the Democratic leaders, they readily perceived the impossibility of settling such a question by legislation merely, and the bills had been allowed to drop.

Besides the unsettled controversies with Great Britain, symptoms also began to appear of serious difficulties with Spain. Claims had been made on the Spanish court for compensation not only for spoliations committed on American commerce previous to the peace of Amiens by Spanish cruisers, but also for similar depredations on the part of cruisers under the French flag, issuing from and harbored in Spanish ports, where the prizes taken had been condemned by French consuls pretending to admiralty jurisdiction. For depredations by vessels under the Spanish flag a liability had been admitted; and, by a convention negotiated in 1802, a

joint board of commissioners was to be established for adjudicating such claims. But the acquisition of Louisiana, the claim to a part of Florida growing out of it, and especially an act of the last session of Congress, establishing a port of entry on the River Tombigbee, above Mobile, had given great offense to Spain. This act was looked upon as indicating a determination to take forcible possession of the part of Florida in dispute, and Spain, in consequence, had refused to ratify the convention for indemnities. Monroe, the lately-commissioned minister to Great Britain, whom Jefferson seems to have regarded as alone capable of any delicate foreign negotiation, was sent to Madrid to assist Charles Pinckney, the resident minister at that court. Assurances having been given that no intention was entertained of seizing the disputed territory by force, the Spanish court withdrew the objections hitherto urged to the acquisition of Louisiana by the United States. But the ratification of the convention of indemnities was still declined. No progress was made in settling the bounds of Louisiana. Spain denied any liability for depredations committed by French cruisers from her ports, maintaining that France alone was responsible, and that all claims on her had been relinquished by the convention of 1800. An offer by the American ministers to make the Colorado the western boundary of Louisiana, and to relinquish their demands on account of the violation of the right of deposit, and of spoliations both French and Spanish, in exchange for the disputed territory east of the Mississippi, was rejected with disdain. According to the Spaniards, Louisiana, as ceded to the United States, was bounded on the east by the Mississippi, Pass Manchac, Lakes Maurepas and Pontchartrain, and on the west by the Mermentau, a stream about half way from New Or-

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leans to the Sabine; and in this view of the recent French cession, as including only a narrow strip of territory along the west bank of the Mississippi, as well as of the non-liability of Spain for French depredations, that court was sustained by Talleyrand, Bonaparte's minister for foreign affairs.

Besides these difficulties abroad, the American government came into disagreeable collision with Yrujo, the Spanish minister, the son-in-law of M'Kean, and who was accused by the editor of a newly-established Federal paper at Philadelphia of attempting to buy him over to the support of the Spanish view of the pending controversies. Yrujo's attention being called to this subject, he maintained, in a long letter, that he had no object except to make the rights of Spain apparent to the American people, and that he had a perfect right to offer pay to the proprietor of a newspaper for inserting articles of that sort. This was not deemed satisfactory, and his recall was asked of the Spanish government.

To obtain such command of our own harbors and waters as would afford security against the insolence of foreign ships of war and privateers, and to enable us, if necessary, to resist attack by sea, Washington had recommended, and Adams had zealously urged, the double means of harbor fortifications and a respectable navy, the same plan which, for the last five-and-thirty years, has formed the basis of our maritime policy. But to the thrifty Jefferson this plan seemed altogether too expensive. He was frightened at the idea of spending fifty millions of dollars on a scheme of fortifications which would require, even in time of peace, two thousand men, and fifty thousand in time of war; and which, in his opinion, would, after all, be of no use. He proposed, as a substitute, heavy cannon on travelling car-

riages, to be brought, when needed, to any point of the beach or coast, or the bank of any navigable river, most convenient for annoying an approaching enemy ; a sufficient number of these cannon to be lent to each sea-port town, and their militia to be trained to use them.

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Ships of war, were no less terrible to Jefferson on the score of expense than fortifications ; and he proposed to replace them by gun-boats, to be manned by the seamen and militia of the maritime towns, and to be kept hauled up under sheds, ready to be launched at a moment's notice—a situation, as he complacently added, in which a boat “ costs nothing but an inclosure, or a sentinel to see that no mischief is done her.” A few, however, might be kept afloat against any very sudden emergencies, some with men enough to navigate them in harbor, and others fully manned. There were, in Jefferson's opinion, about fifteen harbors in the United States which ought to be in a state of substantial defense. For these would be needed, according to his estimate, two hundred and fifty gun-boats, to cost a million of dollars. As no immediate hurry seemed to him to be necessary, ten years might be taken in which to complete them, at the rate of twenty-five a year.

Such was the president's scheme of defense, as suggested in his message at the opening of the second session of the eighth Congress, and more particularly afterward in a letter to Nicholson, chairman of a committee to which that part of the message had been referred.

Nov 2.

Under the appropriation already made, ten gun-boats had been commenced, after a diligent study of Spanish and Neapolitan models, those being the only nations which placed much dependence on this species of force. Two or three had been completed, but from their total incapacity either to sail, or to use their guns with effect,

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these boats had become the laughing-stock of all nautical men, a few navy officers excepted, who found it convenient to flatter executive fancies. But the president was not to be laughed out of his economical system of defense; and he assured the committee that, if fifteen more boats were added to those already in progress, he should be able to put every harbor into a "respectable condition," so as to preserve the dignity of the country from insult. This whole gun-boat system was severely criticised by several of the Federal members; but the House appropriated \$60,000 toward the twenty-five boats as requested.

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Jan. 2.

The great subject of interest was the impeachment of Judge Chase, determined upon at the last session. Eight articles of impeachment, one founded on his conduct at the trial of Fries, five on the trial of Callender, and two on his late charge to the Maryland grand jury, were agreed to, most of them by a strict party vote. John Randolph, the administration leader in the House, took a very active part, as at the former session, and was appointed, along with Nicholson, Rodney, and others of less note, a manager on the part of the House. Having appeared at the summons of the Senate, Chase asked for delay till the next session. This was refused; but a month was given him in which to prepare his defense. In consideration of his age and infirmities, he was allowed to be seated in the center of the area of the Senate chamber, in front of the presiding officer. It was, indeed, a remarkable scene. The aged judge had been among the most active and efficient of those by whom the Declaration of Independence had been brought about, the concurrence of hesitating Maryland in that declaration having been, in a great measure, owing to his exertions. For sixteen years, as he stated to the Senate, he had sus-

tained high judicial offices, state or national, during which whole period his official conduct had never been arraigned except in the cases of Cooper, Fries, and Callender; nor had his private or professional probity or honor ever otherwise been called in question. Of the tribunal before which Chase appeared, the presiding officer was Vice-president Burr. Having returned from his flight southward, he had taken his seat in the Senate just at the opening of the session, over which body, blasted though his prospects and reputation were, and with an indictment for murder hanging over his head, he nevertheless presided with all his accustomed self-possession, dignity, and grace.

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During the judge's interval for preparation, a debate came on in the House which seemed to threaten very seriously the harmony of the administration party, shaken already by the impeachment of Chase. To a proposition for a settlement of the Mississippi claims, Randolph, as at the former session, moved as an amendment a series of resolutions excluding from any compensation the claimants under the Georgia Yazoo grants of 1795.

Quite a number of the Democrats, of whom the leaders were Matthew Lyon, of Kentucky, Elliot, of Vermont, Findley, of Pennsylvania, and Bidwell, of Massachusetts, had, even at the last session, become totally disgusted at the caprices, eccentricities, and insolent, overbearing demeanor of Randolph, whom it had been customary to toast as "the man who speaks what he thinks," but whose excessive freedom in expressing his contempt for his Northern party associates was by no means so agreeable as had been his virulent abuse of the Federalists. The idea of throwing off the Virginia ascendancy, though it had produced no effect upon the presidential election, was not abandoned. All were willing to put

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up with the fair-spoken Jefferson ; but the petulant and waspish, the insolent and acrid Randolph, who had involved himself, during the late session, in several violent personal quarrels, was not to be endured.

Yet declamation against the frauds of land speculators was well suited to a certain class of minds. Almost all the Southern members—the Yazoo claims being chiefly held at the North—went with Randolph, as did some of the Northern ones, especially Leib and Clay, of Philadelphia, and Philip Sloan, of New Jersey, a wealthy butcher employed in the supply of the Philadelphia market, whose oddity of appearance, incorrectness of language, ultra Jeffersonian democracy, and tediously pertinacious harangues exposed him to much ridicule, though he was by no means destitute of sense, and was unquestionably honest and sincere. Randolph, more outrageous than ever, did not hesitate to insinuate that all who opposed him were interested in the claims, or bribed by those who were. They retorted with the courteous epithets of calumniator, madman, despotic demagogue, popular tyrant. He poured out a torrent of abuse on Granger, agent of the claimants, whom he accused of bribing members ; nor did Madison, Gallatin, and Lincoln, who, as commissioners, had recommended a compromise of the claims, entirely escape. Granger thought it necessary to send a letter to the House, asking an investigation into his conduct—a request which was got rid of by a postponement. With the help of the Federalists, the opponents of Randolph voted down his resolution by a majority of five ; but Randolph, on his side, succeeded in defeating the passage of the bill. He complained bitterly—and it was a curious instance of political mutation—that Lyon and Griswold, who had once come into such fierce collision, should now be united against the leader of the Republicans in the House.

Feb. 1

This violent struggle was not yet entirely over when Chase appeared at the bar of the Senate with his counsel, of whom the most eminent were Luther Martin, like Chase himself, originally opposed to the Constitution, but who had long since become a warm Federalist, Charles Lee, late Attorney General of the United States, and Robert Goodloe Harper, the former distinguished Federal leader in the House.

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For these, the ablest advocates in the Union, to take no account of Chase, who was a host in himself, the managers on the part of the House were no match. Martin's massive logic, and Lee's and Harper's argumentative eloquence, directed always to the point, stood in striking contrast to the tingling but desultory surface strokes of Randolph, upon whom the main burden of the prosecution fell. A great number of witnesses were examined on both sides. Chase's counsel admitted that he might have fallen into some casual heats and indiscretions, but they totally denied the proof of any thing that would at all justify an impeachment; and in spite of the strong administration majority in the Senate, he was acquitted on five out of the eight charges against him by decided majorities—on one of them unanimously. Of three other articles, two relating to Callender's trial and the third to his charge to the Maryland grand jury, a majority of the senators present held him guilty; but as this majority did not amount to two thirds, his acquittal was pronounced on all the charges.

March

This acquittal of Chase was deemed by the Federalists a great triumph, tending to show that there were limits even to the power of party discipline. The managers and chief instigators of the prosecution were excessively mortified. Randolph proposed, after a speech full of intemperate and indecent reflections on the Senate, in

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which he spoke of Chase as "an acquitted felon," to amend the Constitution so as to make judges removable by joint resolution of the two houses. Nicholson, on his part, desired to give to the state Legislatures the power to vacate at pleasure the seats of their senators. These splenetic ebullitions came to nothing; but even the majority of the House were guilty, under Randolph's leadership, of the contemptible meanness of refusing to pay Chase's witnesses. The Senate, to their honor, insisted unanimously that, as Chase had been acquitted, all the witnesses should be paid alike. The House refused to yield, and this disagreement caused the loss of the bill. It was then attempted, on the last day of the session, to pay the witnesses for the prosecution out of the contingent fund of the House; but this failed for want of a quorum, and the whole business went over to the next Congress. In that Congress provision was made, though not without very serious opposition from Randolph and his followers, for the payment of all the witnesses alike.

Both in the matter of the Mississippi claims and in his other controversies with the more moderate Democrats, Randolph had been warmly supported by the *Aurora*. But the violent assaults of Duane upon several of his late political associates did not go unpunished. He was deprived of the public printing and of the stationery contract, which, by the help of the Federal votes, were offered to the lowest bidder.

Though the proceedings against Chase were no doubt dictated by violent party spirit, without sufficient foundation in fact or law, yet they were not entirely without good results. They served to check that overbearing and insolent demeanor on the bench, handed down from colonial times, which many judges seemed to have thought it essential to the dignity of their office to exhibit.

Early in the session, a very vehement petition, drawn by Edward Livingston, had been presented to Congress from the inhabitants of the territory of Orleans, complaining of the arbitrary government established over them, and claiming, under the treaty of cession, the privilege enjoyed by the other citizens of the United States, of choosing their own legislators; in fact, immediate organization as an independent state. This was not granted; but an act was passed giving to the Territory of Orleans the same government in every respect with that of Mississippi—the government, that is, of a territory of the first class, having a Legislature chosen by the inhabitants, with the privilege, when they should reach the number of 60,000, of erecting themselves into a state, forming a constitution, and claiming admission into the Union.

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The District of Louisiana, hitherto annexed to Indiana, was now erected into a separate territory of the second class, the power of legislation being vested in the governor and judges. A section of this act, by continuing in force, until altered or repealed by the Legislature, all existing laws and regulations, gave a tacit confirmation to the system of slavery already established in the settlements on the Arkansas and Missouri.

The territory of Indiana underwent a further curtailment in the erection of MICHIGAN into a new and separate territory of the second class. The Indian title had been extinguished to only a small tract, formerly ceded to the French, about the ancient town of Detroit, with another like tract on the main land opposite Mackinaw; and the total white population of this new territory did not exceed four thousand. But their wide separation, by impassable swamps, from the other settled districts of Indiana, made a separate government expedient.

The government of the Orleans Territory had all along

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been reserved for Monroe ; but as he was now otherwise provided for, Claiborne was continued as governor, his other government of Mississippi being given to Robert Williams. The government of Michigan was given to William Hull, of Massachusetts, who had served with honor in the Revolutionary army, having specially distinguished himself in the storming of Stony Point. General Wilkinson, the commander-in-chief of the American army, was appointed governor of the Louisiana Territory.

The condition of the District of Columbia gave rise to considerable debate. More than half the time of Congress, at a great expense to the nation, was taken up with the affairs of that district, and yet its system of laws was left in the most heterogeneous state, two different codes being in force on the opposite sides of the Potomac. It being thought contrary to Republican principles that the people should be governed by Congress, without any Legislature of their own, it was proposed to

Jan. 18. retrocede the whole district except the City of Washington ; but this did not prevail. A proposition brought forward by Sloan, of New Jersey, that all children born of slaves within the District after the ensuing fourth of July should become free at an age to be fixed upon, was refused reference to a committee of the whole sixty-five to forty-seven, and was then rejected seventy-seven to thirty-one. The thirty-one were mainly Democrats from Pennsylvania, New York, and New England. Only five Federalists voted with them, two from New Hampshire, two from Massachusetts, and one from New York.

The practice of arming for their own defense, so generally adopted by American vessels during the difficulties with France, was still kept up in certain branches of trade, especially that with the revolted island of St. Domingo, where Dessalines, in imitation of Bonaparte,

had assumed the title of emperor. Very strict prohibi-
 tions against this trade had been issued by the French ;
 and General Turreau, who had lately arrived from France
 as envoy extraordinary to the United States, had very
 warmly protested against its allowance. The compli-
 ant Jefferson, dreading the interference of France in the
 dispute with Spain, had pointedly called the attention of
 Congress to this trade, "as an attempt to force a com-
 merce into certain ports and countries in defiance of the
 laws of those countries, tending to produce aggression on
 the laws and rights of other nations, and to endanger the
 peace of our own." Upon this hint, Logan brought a
 bill into the Senate to prohibit altogether the trade with
 the new empire of Hayti. But as the blacks, beyond
 all question, were de facto an independent nation, this
 was thought to be carrying complaisance toward France
 a little too far. The most that could be obtained, and
 that not without a great deal of opposition, was an act
 requiring armed vessels to give bonds not to use their
 armaments for any unlawful purpose, but only for resist-
 ance and defense in case of involuntary hostilities ; and
 to bring them back to the United States.

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Another topic of the president's message had been the
 infringements against our laws and rights without our
 own waters by armed ships of the belligerents. To meet
 this difficulty, an act was passed authorizing the use of
 the regular troops of the United States, as well as of the
 militia, to aid in the service of criminal process, whether
 state or Federal, against persons taking refuge on board
 foreign armed ships within the waters of the United
 States. But in all such cases a demand was first to be
 made for the surrender of those against whom the pro-
 cess ran. The president was also authorized, as a fur-
 ther means of preserving the authority of the laws, to

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Feb. 13. When the votes for president and vice-president came to be opened and counted, there appeared for Jefferson, as president, one hundred and sixty-two, and the same number for Clinton as vice-president. The fourteen Federal electors voted for C. C. Pinckney, and Rufus King.

March 4. Re-chosen by this flattering majority, Jefferson entered on his second term of office with an inaugural address filled with congratulations to his supporters on the success of their policy thus far ; on the extent to which that policy had found favor with an intelligent people ; and on the prospect that all remaining doubters would at length succumb to truth, reason, and a just view of their own interest, and especially to the magnanimous generosity with which he proposed to treat them ; and that being thus gathered "into the fold of their country," they would "complete that entire union of opinion which gives to a nation the blessing of harmony and the benefit of all its strength."

In these somewhat premature congratulations on union and harmony, the president seems to have quite overlooked the deep schisms and bitter feuds by which the Republican party was itself divided in the two great states of New York and Pennsylvania. The Burr faction in New York might now be considered as out of

the field ; but that field was hardly left in the quiet possession of the Livingstons and the Clintons before a very bitter quarrel broke out between them. The Merchants' Bank of New York, disappointed of a charter in 1803, had continued to go on under its articles of association. A fresh application for a charter had been made in 1804 ; but instead of granting one, the Legislature of that year had passed an act prohibiting all unincorporated companies, under severe penalties, from issuing notes to pass as money, and giving the Merchants' Bank one year in which to wind up its affairs. Similar acts for the restraint of private banking had recently been passed in Massachusetts, copied from the old act of Parliament of 1741, the first enforcement of which in New England had almost produced a rebellion. These acts had been obtained by the existing banks upon the plausible ground that such prohibitions were essential to the security of the public. But, besides their squint toward monopoly, a most hateful thing in every trading country, they were attended, in the end, by two other evil consequences very fully developed in New York ; the making the grant of bank charters a matter of political favoritism and a reward for political services, and the opening a wide door to bribery and corruption.

The stockholders of the Merchant's Bank, not discouraged, again made their appearance at Albany the present year. The leading Democrats, from their concern in the Manhattan and State banks, were not only deeply interested in keeping up a monopoly, but they also considered it quite intolerable that an association of Federalists should presume to ask a Democratic Legislature for a bank charter. An agent from the city of New York was dispatched to Albany to oppose the grant ; but that agent, by some means or other, was soon silenced, bought

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over, it was alleged, by the other side. After very hot debates and a violent altercation, in which two senators, both having the title of judge, came to actual fisticuffs within the senatorial precinct, the bill of incorporation passed the Senate by a majority of three votes. A cry was immediately raised by the Clintonians of treachery on the part of the Livingston faction, and of bribery by the applicants. A committee of investigation, appointed by the House, laid evidence before that body that certain agents of the bank, one of them a senator, who presently resigned in order to escape expulsion, had endeavored to secure the votes of certain Democratic members by offering them shares in the stock, with a guarantee, did the members not choose to pay up the assessments, of purchase after the charter was granted at twenty-five per cent. advance. It was also proved that two of the senators had accepted such offers. The apparent horror of the Clintonians at this discovery would have seemed more real, had not similar, if not the very same, expedients been employed but two years before in obtaining the charter of the Democratic State bank. As it was, their clamor produced but little effect, and the bill passed the House by a decided majority.

The treacherous Democrats in the Legislature were at once attacked with great fury in the Albany Register and the American Citizen, in the latter paper by the pen of Tunis Wortman, as rancorous as it was fluent. An appeal was made by the Council of Revision to defeat the bill ; and Judge Spencer, as a member of that body, exerted his utmost efforts against it, maintaining, first, that the bank was not needed, and, secondly, that the charter had been obtained by corruption Governor Lewis, Chancellor Lansing, Chief-justice Kent, and Judges Livingston and Thompson, gave it their approval, and

it became a law. But from that moment was formed, on the part of the Clintonians, a settled and violent opposition to the administration of Governor Lewis. CHAPTER
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Another measure adopted at this session, on the recommendation of the governor, admits of no difference of opinion. This was the appropriation of the proceeds of the remaining state lands, amounting to about a million and a half of acres, toward constituting the existing school fund of the State of New York.

Chancellor Livingston, having resigned his embassy to France, in which he was succeeded by his brother-in-law Armstrong, withdrew thenceforth from public life, for which his increasing deafness quite incapacitated him. Yet he still displayed the vigor and enterprise characteristic of his family. At Paris he had become acquainted with Fulton, and presently entered with him upon a series of expensive experiments, for which his ample estates furnished the means, resulting finally in bringing into practical use that magnificent invention of steam navigation. Livingston's attention was also much given to agriculture, and he aided in introducing the use of plaster of Paris as a manure. Humphreys, the late minister to Spain, who had secured a fortune by marrying the daughter of a wealthy English merchant at Lisbon, had, since his return to America, given his attention to the improvement of the native flocks by the importation of merinoes, and to the manufacture of fine broad cloths, now for the first time produced in America. Livingston took up the same idea, and he too imported merinoes from Spain.

Joel Barlow, whose republican dreams had received a severe check in the elevation of Bonaparte to an imperial throne, returned to America about the same time with Livingston. He had left Connecticut, some fifteen years before, a poor adventurer, but now brought back

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with him an ample fortune, acquired by commercial speculations. Barlow's reception in New England was exceedingly cool. Having paid a visit to Boston, the newspapers there republished his famous fourth-of-July song of "The Guillotine," and they also threw in his teeth his discipleship of Paine, whom, indeed, he had assisted in publishing the first part of his "Age of Reason," besides himself having translated and published Volney's "Ruins of Empires." Having established himself in a magnificent residence in the District of Columbia, Barlow presently put forth, with a splendor of typography hitherto unknown in America, and in a new and enlarged edition, under the title of the "Columbiad," his "Vision of Columbus," originally published before his embarkation for France. It is, however, on his vigorous prose that Barlow's claims as a writer must principally rest.

February. Before the termination of Chase's trial, the impeachment of the Pennsylvania judges had reached a similar end. The judges had shown their sagacity in retaining Dallas for their defense. All the other eminent lawyers of the state were Federalists, and when applied to by the managers they all refused to take a fee in the case. The managers themselves were quite inadequate to so serious a business. Hence the necessity of employing Rodney, from the neighboring State of Delaware, under circumstances which might call to mind M'Kean's original appointment as chief justice of Pennsylvania. A majority of the senators pronounced the judges guilty ; but as that majority was short of two thirds, the result was an acquittal.

The anger, at this result, of the Aurora and the ultra Democrats, knew no bounds. The project was immediately started for a convention to remodel the state Constitution, and a memorial to that effect was got up and

presented to the Legislature. A large number of the more moderate Democrats, including all the advocates of M'Kean's vetoes and the opponents of Leib and Duane, were by no means willing to go this length; and they prepared and presented a counter memorial.

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The propositions for altering the constitution of the national judiciary and Senate, brought forward by Randolph and Nicholson; the semi-Revolutionary step, or approach to it, taken by the Democratic convention which Pierrepont Edwards had called together in Connecticut; and now this proposition for a new constitution for Pennsylvania, together with the violence of the Clintonians in New York, excited general alarm, as evidences of the existence in the country of an ultra radical and Revolutionary party. Yet the memorial for a convention in Pennsylvania only proposed to make the election of senators annual; to reduce the patronage of the governor; and to limit the term of office of the judges—a thing already existing in Connecticut, Vermont and Ohio, and since substantially carried into effect, not in Pennsylvania only, but in New York and many other states; and which (in spite of conservative objectors) may be considered as now coincident with the prevailing political ideas of intelligent men in America. Longer experience has tended to produce the conviction that all select bodies in which the appointing power may be vested, while they are hardly less liable to delusion than the mass of the voters, are far more likely to be managed by intrigue and warped by private interests. It is also to be borne in mind that the improved political education of the people, the multiplication of newspapers, and the immense and increasing diffusion of intelligence, has made practicable for us an infusion of democracy into the administration of public affairs which half a century ago might have been at least questionable, if not dangerous

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The moderate Democrats took the name of Constitutionalists; and, as a central point for operations, they organized what they called "The Constitutional Society." The other section of the party constituted themselves into a rival club, called "the Friends of the People." The Federalists looked on and enjoyed the strife; yet not altogether without alarm; for the violence of the factions seemed almost to threaten a civil war. M'Kean, having put his veto upon some further acts for increasing the power of the Assembly and for regulating the administration of justice, was openly denounced by "the Friends of the People;" and at a legislative caucus, Simon Snyder, late speaker of the House, whose German name and lineage would attract, it was hoped, many votes, was nominated as the ultra Democratic candidate for the office of governor. The Constitutionalists, on the other hand, rallied about M'Kean, among them that "plausible, elastic, extraordinary man" Dallas, for so the *Aurora* described him—and it charged him, too, with having pocketed \$6598 for three months' services as state pay-master during the Whiskey Insurrection. Logan also adhered to M'Kean, as did Cooper, the Sedition Law martyr, lately appointed president judge of one of the Common Pleas districts.

In their address to the Democratic citizens, the friends of Snyder represented M'Kean as a demagogue ready to purchase preferment by making a display of the most extravagant republican zeal, but, at the same time, by education, sentiment, and habit, a domineering and overbearing aristocrat, who, having first obtained office and secured his re-election by Democratic votes, had finally attempted, with Federal aid, to set up a third party of his own, and had always treated the Democratic Legislature with distant sullenness, private virulence, and public disrespect. The biting lash of the *Aurora* was now

most bitterly felt by many who had formerly stimulated its application to others ; so much so that the friends of M'Kean complained in their address "that the citizens might at length perceive that advantage had been taken of their just veneration for the liberty of the press to shackle them with the tyranny of printers."

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How far the Democrats of Pennsylvania, whether Constitutionalists or Friends of the People, could make any just pretensions to "veneration for the liberty of the press," may be judged of by a prosecution which, before their schism, they had jointly promoted against Joseph Dennie, the able editor of the *Port Folio*, published at Philadelphia, in which journal had appeared a general diatribe against Democracy, setting forth the evils of that form of government as exhibited in Greece, Rome, and elsewhere, but without any direct allusions to America, though the application was obvious. Upon this article an indictment had been found (July, 1802), charging Dennie with the publication of a seditious libel, with the design to bring the government of the United States into contempt! Chief-justice Shippen, who presided at the trial, which came on toward the end of the current year, instructed the jury that if the publication had been made with the intent charged, the indictment would lie. But the jury settled the matter by a verdict of not guilty.

The veteran but now somewhat superannuated Thomas Paine, having returned to America, had taken up his residence on a farm in New York, the forfeited property of a refugee Tory, given him by that state for his Revolutionary services. His pen was enlisted on the side of "the Friends of the People;" but, by those same supporters of M'Kean who had admired the letter to Washington in 1797, Paine was now denounced as "a polluted monster, infamous and execrated."

'There was some difference of opinion among the Fed-

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While the Democratic party in New York and Pennsylvania was shaken by these violent internal struggles, Virginia remained quite tranquil. Even there, however, a more radical and a more moderate party existed, of which the latter triumphed in the election of William H. Cabell to succeed Page as governor.

July 4. In the course of the summer large additional cessions of lands were obtained from the Indians. By a treaty held at Fort Industry, on the Maumee, between Governor Harrison and the Wyandots, Ottawas, Chippewas, Munsees, Delawares, Shawanees, and Potawatomes, those tribes, in consideration of a perpetual annuity of \$1000, relinquished all claim to the tract in the State of Ohio known as the Connecticut Reserve. This was in addition to \$16,000 already paid or secured to some of these tribes by the Connecticut Land Company, the purchasers from Connecticut of that tract. By another treaty, shortly after, with the Delawares, Potawatomes, Miamis, Eel River Indians, and Weas, the Indian title was extinguished to all that part of the present State of Indiana within fifty miles of the Ohio, except a narrow tract along the west bank of the Wabash; and thus, in

connection with former cessions, was opened to settlement the whole northern bank of the Ohio, from its sources to its mouth. The consideration to the Indians was \$4000 in cash, an annuity of \$500 for ten years, and a permanent annuity of \$1100. CHAPTER
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On the south of the Ohio, also, cessions of no less importance were obtained. The introduction of the arts and habits of civilized life among the Indian tribes, originated by Washington, and zealously followed up by Jefferson, proved a measure no less politic than humane. The recent progress of the Cherokees in husbandry and the rearing of cattle made them the more ready to cede a part of their lands, now no longer needed as hunting grounds. For \$14,000 in cash, and a perpetual annuity of \$3000, they yielded up, of that wide, intervening tract by which hitherto the settlements of East and West Tennessee had been divided, the portion north of Duck River. They also conceded the opening of several roads and the passage of the mail through their territory.

The Georgians too succeeded at last in obtaining that object of their ardent wishes, the tract, or the greater part of it, between the Oconee and Ocmulgee. A treaty had been made the year before, by which the Creeks had agreed to cede this tract for the sum of \$200,000, in irredeemable six per cent. stock of the United States. But this treaty the Senate had refused to ratify, both because they thought the price exorbitant, and because they apprehended that the stock might soon pass out of the hands of the Indians into those of cunning traders and speculators. By a new treaty the Creeks agreed to accept instead an annuity of \$12,000 for eight years, to be followed by an annuity of \$11,000 for ten years. Nov. 14

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EATON AND HAMET. CARRYING TRADE. FIRST SESSION OF THE NINTH CONGRESS. SECRET APPROPRIATION FOR THE PURCHASE OF FLORIDA. SCHEME FOR COERCING GREAT BRITAIN. MIRANDA'S EXPEDITION. QUESTION OF THE SUCCESSORSHIP. AFFAIRS OF PENNSYLVANIA, NEW YORK, CONNECTICUT, AND MASSACHUSETTS.

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AT the commencement of the difficulties with Tripoli, Cathcart, the late consul there, had suggested to Eaton, at Tunis, the idea of an attack on Tripoli by land, in concert with Hamet, then resident at Tunis, elder brother of Jessuff, the reigning bashaw of Tripoli, and formerly bashaw himself, but who had been deprived of his sovereignty by Jessuff, and driven into exile several years before. Eaton was a person of romantic temper and great enterprise. At the age of sixteen he had left his father's house in Connecticut without leave, and had enlisted into the Revolutionary army. Having served through the war, and risen to be a sergeant, he had returned home, and, gaining a support meanwhile as a teacher, had prepared himself to enter Dartmouth College, and in the same way had made his way through it. He was shortly after appointed a captain in the army; and having served in the Northwest under St. Clair and Wayne, besides doing garrison duty in Georgia, had finally received from Adams the consulship at Tunis. He caught eagerly at Cathcart's suggestion, and opened a communication with Hamet. But, after incurring an expense of some \$22,000, though countenanced to a certain extent by the authorities at home, he could not en-

gage the naval commanders on the station to co-operate with him. The next year (1803) Eaton went to America, and, by urgent representations, succeeded in obtaining a vague sort of authority to carry out, in conjunction with Hamet, his scheme of a land attack upon Tripoli. He returned to the Mediterranean in Barron's squadron (1804), and proceeded to Egypt in pursuit of the exiled bashaw, who—after attempting, at the head of a body of mercenaries hired for the purpose, an attack upon Derne, the Tripolitan port and settlement nearest to Egypt, but separated from it by a wide desert—had been reduced to the necessity of joining the Mamelukes in Upper Egypt, where such of them as had escaped the French invaders and the still more destructive massacre of the famous Ali Pasha still maintained a predatory war against the Turkish authorities. By indefatigable zeal, and by the friendly assistance of the English agents at Cairo and Alexandria, and in spite of obstacles placed in his way by the French consul, Eaton succeeded in obtaining from Ali Pacha, by whom he was very courteously received, a letter of amnesty for Hamet, and permission for him to pass the Turkish armies, and to leave Egypt unmolested. Messengers were sent to Upper Egypt to seek Hamet out and to detach him from the Mamelukes; and he and Eaton at length met near Alexandria, and concerted measures for an expedition against Derne. The force mustered for this invasion consisted of about four hundred men, one hundred of them Christians, adventurers of various nations, picked up in Egypt, including nine Americans. The rest were partly Tripolitan exiles, adherents of Hamet, and partly Arab cavalry, any number of whom it would have been easy to collect had there been means to feed them. While this force commenced its march through the desert, with

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April 15. After infinite trouble with his camel-drivers fearful of not being paid, and a constant struggle against the hesitation and timidity of his allies, Eaton succeeded, at last, in reaching Bomba just as the last of his provisions were consumed. But Bomba was an arid beach, without the vestige of a human being. Nothing could be seen of any wells, nor was the expected vessel in sight. From rage the Musselmen passed into despair; but a signal-fire having been kindled, by Eaton's orders, on a neighboring hill, it was seen by the *Argus*, which was off the coast, and she presently stood in. The *Hornet* arrived a day or two after, laden with provisions; and meanwhile ample cisterns of water had been found at a little distance inland. Thus replenished, the little army pushed on for Derne, the approach to which was presently indicated by signs of vegetation. As that town came in sight, Eaton's motley forces were greatly frightened by a report that the Tripolitan troops were approaching. He persuaded them, however, to seize upon a hill overlooking the town. Hamet was joined by some additional partisans. Two of the three quarters which made up the town were well disposed toward him; but as the governor had a force of eight hundred men, these friends were not able, at present, to render any assistance. In a few days the *Argus* and *Hornet*, joined meanwhile by the *Nautilus*, made their appearance off

Derne. To a proposal to the governor that he should acknowledge Hamet as bashaw, the laconic answer was returned, "Your head or mine." An attack was immediately resolved upon. The main defense was a water battery of nine guns. There were also some temporary breastworks; and the houses of the hostile quarter were loop-holed for musketry. The ships of war, having taken up a position as near in shore as possible, opened a fire on the battery and the town. Eaton, with his little band of Christians, aided by a field-piece and a few marines from the shipping, attacked a body of the enemy stationed behind the temporary breastwork; while Hamet, with his cavalry, took up a threatening position on the opposite side of the town. The battery having been silenced by the shipping, Eaton and his party made a rush and obtained possession of it. The guns were turned upon the town, the ships renewed their fire, and the enemy were soon completely driven out. Thus Derne fell into Hamet's hands. Eaton was soon after attacked there by the forces of Jessuff, sent to the relief of the garrison; but, assisted by the vessels, he succeeded in repelling them. He pressed hard for further supplies, to enable him and Hamet to march against Tripoli itself. But Barron, who knew the exceedingly economical spirit of the government, and who had no great faith in Eaton's project, doubted whether he was authorized to grant any thing more. Indeed, a negotiation was already on foot, conducted by Lear, who had succeeded O'Brien as consul at Algiers, which soon resulted in a treaty of peace.

This treaty provided for an exchange of prisoners, man for man, as far as they would go. But as Jessuff had a surplus of about two hundred prisoners, \$60,000 was to be paid by way of ransom for them. No further aid was

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to be furnished to Hamet, Jessuff stipulating, however, to give up his wife and children, who had been detained at Tripoli. When Eaton and his Christian troops were withdrawn from Derne, that unhappy adventurer himself embarked also, as having no other refuge either from the revenge of his brother or the despair of his own adherents. This abrupt termination of the war was by no means agreeable either to Hamet or Eaton, both of whom considered themselves very badly treated. And there were those in America to whom the peace seemed somewhat hasty; especially as pains had been taken to send to the Mediterranean nine of Jefferson's gun-boats, with their guns stowed in their holds, also two bomb-ketches, built at Preble's suggestion, re-enforcements to Barron's fleet, which arrived just after peace was concluded. It seemed singular to many that a peace should have been made just as the American squadron had learned the true method of attack, and had been provided with proper means for it, possessing, also, an opportunity for a land co-operation—a peace including the concession of paying ransom for the prisoners, which had all along been the great point of dispute.

Loud threats of war had recently been uttered by Tunis, in consequence of the capture of two or three vessels of that regency which had attempted to evade the blockade of Tripoli. But Barron's appearance with his whole fleet off that port soon brought the Bey to terms. He retracted his threats of war, and asked permission to send an ambassador to the United States to solicit the restoration of his captured vessels.

Since the recommencement of the European war, the carrying trade of the United States had reached an immense extension, never known before or since, and pro

ductive of vast profits. The vessels employed in this trade, and especially their valuable cargoes, were tempting objects of spoliation to the cruisers of the belligerents, of whom, since the beginning of the year, Spain had become one, and already many disagreeable annoyances and interruptions began to be experienced. The trade with St. Domingo, at least the old French part of it, was carried on by armed ships, and in spite of the French cruisers, who did their best to break it up. Many French and Spanish cruisers made captures without the shadow of a cause, often robbing vessels of which they could not hope to obtain the condemnation, and maltreating the passengers and crews. The whole southern coast of the United States, and the very entrances of the harbors, were annoyed by these half pirates. But what created by far the most alarm was a new view of the rights of neutrals taken by the British Admiralty Court, going greatly to curtail the neutral trade of the United States.

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According to the modification of the rule of the war of 1756, hitherto recognized by the British orders in council, the Americans might lawfully trade to and from the colonies of the belligerents in produce and goods of all kinds. They might trade also in the same way with the mother countries of those colonies, and with Europe generally. The consequence was, that the carrying to Europe of the produce of the colonies of France and Holland, and, since the recent accession of Spain to the French alliance, of the vast colonies of that country also, most of them now opened for the first time to foreign vessels, and the supplying of those colonies with European goods, had fallen almost entirely into American hands. The only other neutral maritime powers were Sweden, Denmark, and the Hanse towns; all of whom, as well as the United States, were fast growing rich by

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this most profitable business. The colonial produce, or the manufactured goods, as the case might be, were first transported to the neutral country and landed there, and then transhipped to the place of consumption, thus giving to the neutral a double freight, at rates fixed almost by himself. The British merchants regarded with envy the vast profits of this growing commerce. The British privateersmen and navy officers complained that there were no longer any prizes to take. The belligerents had ceased to have merchant vessels or other property *afloat*. All their colonial produce and manufactured goods were protected from capture by transportation as neutral property and under neutral flags. Thus, it was alleged, was the rule of the war of 1756 wholly evaded. The commerce between France, Holland, and Spain, and their respective colonies, was carried on, with some enhancement, indeed, of expense, but in other respects with as little interruption as in time of the most profound peace; while these hostile nations, no longer needing convoys for their commerce, were enabled to employ all their ships of war in cruising against British trade, or to concentrate them for the invasion of England.

In this state of things, the British courts of admiralty began to listen to suggestions that this allegation of neutral property was in many, indeed in most cases, a mere fraud, intended to give to belligerent property a neutral character; that it was impossible that the neutral merchants, whether Americans or others, lately possessed of so little capital, could suddenly have become so immensely rich as to be the real owners of such valuable and numerous cargoes; that even a landing and transshipment in a neutral country, did not break the continuity of the voyage, when the goods thus transhipped continued to belong to the same person, especially when other

circumstances tended to show that the property had been imported to a neutral country for the very purpose of being exported again to a belligerent one.

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The condemnation, on these grounds, of several American vessels with very valuable cargoes, as soon as it became known in America, led to a series of public meetings in all the principal sea-ports, in which the national government was very loudly called upon for protection and redress.

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Nov.

These proceedings of the British admiralty courts, and the by no means friendly disposition evinced by France and Spain, caused the coming together of the ninth Congress to be looked forward to with great anxiety. In both branches of that body the Democrats had an overwhelming majority. In the Senate the Federalists were reduced to seven: Plumer, of New Hampshire; Pickering and J. Q. Adams, of Massachusetts; Tracy and Hillhouse, of Connecticut; and Bayard and White, of Delaware. The other twenty-three members were Democrats, of whom Smith, of Maryland, and Giles, of Virginia, might be esteemed the leaders. Giles, however, was absent during most of the session. The other Democratic members of note were Baldwin and Jackson, of Georgia, and Dr. Mitchill, of New York. The new member from New Hampshire was Nicholas Gilman, brother of the Federal governor, but himself a Democrat.

Dec. 2

The Federalists were equally weak in the House. They could not count above twenty-five members, mostly from New England. Roger Griswold, of Connecticut, their leader during the four or five last sessions, had retired. But his former colleagues, Dana, John Cotton Smith, and Davenport, still maintained their seats; and in Josiah Quincy, who had superseded Eustis as the Boston representative, the Federalists had a new mem-

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ber who soon made himself conspicuous. Out of the seventeen Massachusetts members, the Democrats now, for the first time, had a majority, ten in number, among them Varnum, Crowninshield, and Barnabas Bidwell. Elliot, of Vermont; Mumford, and George Clinton, a brother of De Wit, but without his talent, from the city of New York; Sloan, of New Jersey; Gregg, Findley, Smilie, Leib, and Clay, of Pennsylvania; John Randolph, Thomas M. Randolph, and Eppes, of Virginia; and Macon, of North Carolina, again reappeared. The larger part of the members, under the system of rotation in office, were new, of whom only one or two soared above mediocrity. Nor could the Congress, taken as a whole, compare in talent with any of its predecessors.

Macon was again elected speaker, but not till after three trials, and then only by a bare majority. The Northern Democrats had grown tired of Southern dictation, and the greater part of them, thinking it was time to have their turn, voted for Varnum. The Federalists voted for John Cotton Smith. Macon reappointed John Randolph as chairman of the Committee of Ways and Means; but the bulk of the Northern Democrats refused any longer to acknowledge him as a leader. Disappointed at Jefferson's backwardness in supporting his radical measures, and at the influence over the president evidently exercised by Granger and other Northern Democrats, Randolph was in a very sore and dissatisfied state, of which palpable indications very soon appeared.

The president was not able to give an account as to the condition of foreign affairs so flattering as that in his former messages. Peace, indeed, had been secured with Tripoli; but the conduct of Spain in regard to the Louisiana question—not to mention her belligerent aggressions—especially the conduct of her military officers, who

had intruded upon territory hitherto in the possession of the United States, made it necessary to repel force by force. Determined and effectual resistance was also required to the new principles as to the carrying trade, interpolated by Great Britain into the law of nations.

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Such being the doubtful state of foreign affairs, Jefferson again pressed his favorite gun-boat project for the protection of harbors. Whether it would be necessary to increase the regular army, events in the course of the session would determine. Meanwhile, he recommended a classification of the militia, so that in any sudden emergency the younger and more active portion might be called separately into the field—a thing often recommended before and since, and several times taken in hand by Congress; but never with success.

Attention was also called to the naval force, and to a provision of the existing law introduced in accordance with Jefferson's economical principles (but suspended during the hostilities with Tripoli), that in time of peace vessels in commission should have but two-thirds their complement of men—a piece of unreasonable curtailment, which rendered them quite inefficient. It was also intimated that there were on hand, collected during Adams's administration, materials for building six ships of the line; but as to what ought to be done with those materials, the president did not venture on a hint.

During the course of the summer, on the resignation by Lincoln of the attorney generalship, an office in which he had acquired no great distinction, a change had been attempted in the Navy Department, by giving Lincoln's place to Smith, and appointing Crowninshield Secretary of the Navy. But Crowninshield was too busy in the field of commerce to accept the office, and Smith returned again to the Navy Department, the attorney general-

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ship being given to Breckenridge, of Kentucky, the busy politicians of which growing state were already very uneasy at not having what they esteemed their fair share in the distribution of office. Smith wanted the seventy-fours; but the prejudices of the Southern Democrats against the navy were inveterate; and neither he nor Jefferson dared openly to ask for them.

This little haste to get ready, notwithstanding the apparent prospect of immediate hostilities with Spain, may be easily explained. The president and his cabinet flattered themselves that a new sum of money, nominally paid to Spain, but which would redound also to the benefit of France, since France and Spain were now allies, might induce France to compel Spain to sell the Floridas, or, at least, that portion of them bordering on the Mississippi. But as the trusting great sums of money in executive hands for uncertain uses had always been very pointedly condemned both by Jefferson and Gallatin, the administration did not wish openly to broach this project by asking for the money. In order to obtain it, apparently, by a voluntary offer of Congress, a message, covering papers relating to the difficulties with Spain, was sent to the House, ostensibly for the purpose of referring to that body the question whether, and to what extent, force should be used in repelling Spanish aggressions on the side of Louisiana. This message and the papers were read with closed doors, and referred to a select committee, of which Randolph was chairman. He was informed, first by the president himself, then by Madison, and finally by Gallatin, who furnished a plan for raising the money, that what the administration wanted was not troops, but two millions of dollars, with which to commence a new negotiation for purchase. Madison assured him that, as things now stood, France

would not allow Spain to adjust her differences with us ; that she wanted money, and we must give it to her, or have a Spanish and French war. But in the soured state of Randolph's mind he declined to allow himself to be thus used, and he gave Madison and Gallatin, as he afterward stated, a severe private lecture on this indirect method of asking for money.

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The president then sent for Bidwell and Varnum. Bidwell, himself a member of the committee, was timid indeed, but cunning, supple, and sly. Varnum was honest, downright, and steady, but never suspected of having much head. To these two members the executive wishes were communicated, and Bidwell made some unsuccessful attempts to ingraft them into the report of the committee. He could not prevail, however, against the influence of Randolph, and the report was by no means what the president wanted. It denounced, as ample cause of war, the conduct of Spain in refusing to ratify the convention of 1802, and to adjust the boundaries of Louisiana; her obstructions to the trade of the American settlements on the Tombigbee by her claim to levy a duty on American produce passing down the Mobile River; and her late violations of the American territory. But as it was the policy of the United States to improve the present season of extended commerce and great revenue from it to pay off the public debt, war, if possible, was to be avoided. By concessions on the side of Mexico, in which direction the United States claimed as far as the Rio del Norte, Spain might be induced to consent to a favorable arrangement of the eastern limits of Louisiana. Yet troops were essential to guard the territory of the United States from invasion; and the committee recommended the raising of as many as the president might deem necessary for that purpose; and they reported resolutions to that effect.

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Upon this report a very warm debate arose, still with closed doors. Bidwell offered a substitute for the resolutions of the committee, placing in the hands of the executive, for extraordinary expenses of foreign intercourse, two millions of dollars; and, as a means of reimbursing this money, which the president was to be authorized to borrow, continuing the two and a half per cent. additional duty imposed under the name of the Mediterranean Fund, but which, on account of the peace with Tripoli, was about to expire. To Randolph's objection that the president's message did not ask for money, Varnum rather indiscreetly rejoined that he knew such to be the "secret wishes" of the president. Those secret wishes, thus announced to the House, at once prevailed, and the resolution of the committee was voted down seventy-two to fifty-eight, mainly by the Northern Democrats, the Federalists voting with Randolph and his adherents.

But the matter did not end here. The debate in secret session was kept up for near a fortnight. Randolph desired to prefix a preamble and to make certain amendments to Bidwell's resolution, restricting the "extraordinary expenses" therein spoken of to the purchase of the Spanish territory east of the Mississippi; and this was at first agreed to. Attempts were also made to limit the sum to be thus expended; but these failed. Finally, indeed, the House retraced its steps, struck out Randolph's amendment, and passed a bill in the vague terms of Bidwell's original proposal, appropriating the two millions generally for "extraordinary expenses of foreign intercourse;" which bill was presently sent to the Senate

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Randolph succeeded in defeating Bidwell's proposal

for the continuance of the Mediterranean duties, on the ground that it was an unwarrantable proceeding to vote supplies in secret session. Means, however, as we shall see, were found, before the end of the session, to carry that measure also.

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From this moment it was open war between Randolph and the administration, against whose leading members that eccentric orator henceforth poured out all his virulence. Varnum, Bidwell, and some five or six others, through whom the executive wishes were conveyed, as he said, to a supple and obedient majority, were stigmatized now as the president's "back-stairs favorites," and now as "pages of the presidential water-closet." At first Randolph's adherents were quite numerous, but they diminished from day to day, and before the end of the session had dwindled to a very few.

During the pendency of these discussions, all of which were carried on with closed doors, the government received a very pointed insult from Yrujo, the Spanish minister. Having made his appearance at Washington, Madison wrote to remind him that the Spanish government, in reply to the solicitation for his recall, had desired that, as leave to return had already been asked for by him, his departure might take place on that footing. Under these circumstances, Yrujo's presence at Washington was, so Madison stated, "dissatisfactory to the president," who, though he did not insist on his leaving the United States at this inclement season, yet expected his departure as soon as that obstacle was removed. To this letter Yrujo made two replies. In the one he insisted on his perfect right, both as an individual and a public minister, not engaged in any plots against the United States, to continue his residence at the City of Washington, which he intended to do so long as suited his per-

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sonal convenience and the interests of the king his master. In the other letter he informed Madison "that the envoy extraordinary and minister plenipotentiary of his Catholic majesty near the United States receives no orders except from his sovereign;" and to this announcement he added a solemn protest against Madison's invasion of his diplomatic rights; intimating, also, his intention to communicate to all the other ministers accredited to the United States a copy of the correspondence. To this insolence on the part of Yrujo Jefferson and his cabinet very quietly submitted; and, indeed, they were subjected to still greater humiliation from the same quarter. It was in relation to this affair that John Q. Adams presently introduced into the Senate a bill to prevent the abuse of the privileges enjoyed by foreign ministers, giving to the president authority to order their departure in certain cases. Nothing, however, came of this bill; and, in fact, its passage would have been an implied declaration that in the case of Yrujo the president had attempted to exercise an authority which did not belong to him.

We have had occasion to mention in a previous chapter the scheme of Miranda for liberating the Spanish American colonies from political dependence on the mother country. The renewal of friendly relations between France and the United States, followed as it speedily had been by the peace of Amiens, had cut short Miranda's first scheme in which he had hoped to obtain the joint assistance of Great Britain and the United States. He returned to Paris in 1804, but, being accused of intrigues against Bonaparte's government, he was again sent away. The present position of Spain, especially the misunderstanding which had arisen between her and the American government, seemed to favor a

renewal of his projects; and about the beginning of the current year, bringing letters of introduction to Mr. Jefferson, he had arrived in the United States, with the purpose of fitting out an expedition having for its object to revolutionize the province of Caraccas, the same which now constitutes the republic of Venezuela. Even apart from a natural feeling of sympathy for Miranda's political principles and objects, as things then stood between Spain and the United States, any such embarrassment to Spain was not likely to be disagreeable to the American government. Miranda used, indeed, a certain degree of reserve, and carried on his preparations with secrecy; but, while those preparations were making at New York, he resided for some time at Washington, in habits of intimacy with Jefferson and Madison; and it was afterward believed that the act prohibiting the exportation of arms had been dropped for his special convenience. It is certain, that a Mr. Ogden, of New York, whose ship, the *Leander*, was chartered by Miranda, and that William S. Smith, John Adams's son-in-law, who held at this time the lucrative post of surveyor of that port, and who was engaged in furthering Miranda's preparations, both believed that he was secretly countenanced by the government. Presently the *Leander* sailed from New York, having on board Miranda, a supply of arms, and two or three hundred men enlisted for the enterprise. Soon after her departure the matter began to be talked of in the newspapers; and the government, alarmed lest they might be compromitted with the Spanish, ordered prosecutions to be commenced against Ogden and Smith. They presented memorials to Congress, setting forth that they had entered into the enterprise having every reason to believe, from the representations of Miranda, that he was secretly supported and encour-

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aged by the government. The House resolved by a very large majority, a few of the Federalists in the negative, that there was no reason to give credit to the imputations attempted to be cast on the administration by these memorials, and that they appeared to have been presented with insidious designs. Another resolution, that it would be highly improper in the House to take any step that might influence or prejudice a cause pending before a legal tribunal, was agreed to unanimously. Yet, when the case came on for trial, Ogden and Smith were acquitted by the jury on this very ground that the government had countenanced the enterprise; and the circumstance that the president, alleging that he needed their services at Washington, had interposed his authority to prevent the attendance of his cabinet ministers, who had been summoned as witnesses by the defendants, served to assure the public that the verdict was correct.

In consequence of this affair, Smith lost his office, as did also Swartwout, the marshal, Burr's friend, whose selection of a jury, and whose testimony in the case, were by no means satisfactory to the president. The expedition itself ended, two or three months after, in a complete failure. Miranda obtained some assistance from the English, and took possession of two or three towns on the coast of Caraccas. But the inhabitants would not listen to his proffers of liberty. Two transports, with some sixty Americans on board, were taken by the Spaniards. The rest returned to Trinidad, where the expedition dispersed and broke up.

Meanwhile the attempt proceeded to arrange by means of the two millions appropriated for that purpose the difficulties with Spain. "A last effort at friendly settlement with Spain is proposed to be made at Paris, and under the auspices of France;" so wrote Jefferson to his

confidential friend Wilson C. Nicholas. "For this purpose, General Armstrong and Mr. Bowdoin (both now at Paris) have been appointed joint commissioners; but such a cloud of dissatisfaction rests on General Armstrong in the minds of many persons, on account of a late occurrence stated in the public papers, that we have in contemplation to add a third commissioner, in order to give the necessary measure of public confidence to the commission." Bowdoin, a son of the late James Bowdoin of Massachusetts, but in no respect equal to his father, had been rewarded for his adherence to Jeffersonian politics by the mission to Spain, as successor to Charles Pinckney—the ruinous state of whose private pecuniary affairs had demanded his presence at home, where he was soon again chosen governor. The feeling against Armstrong grew out of his interference, irregular and unauthorized, as it was maintained, to prevent the payment by France of a claim under the Louisiana treaty, already allowed by the American commission, but as to which Armstrong entertained suspicions, that the property was English. The Senate, out of an "unjust indignation," so Jefferson esteemed it, refused, by a tie vote, to confirm Armstrong's nomination as joint commissioner, and in consequence of this refusal the project of a third commissioner was dropped; but already the two millions had been forwarded, by the sloop of war *Hornet*, with instructions to Armstrong and Bowdoin, how to employ it.

The defeat of Trafalgar, by alarming the Spaniards, had delayed an intended transfer of troops from the Havana to operate against Louisiana. But the negotiation for which the two millions had been voted came to nothing; and while that negotiation was still pending, the Spaniards again resumed a hostile attitude. On the

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side of Mexico, the American claim extended to the Rio Grande. The Spaniards, on the other hand, would have limited Louisiana by the Mermentau and a very narrow strip along the west bank of the Mississippi. The Sabine had hitherto been regarded, on both sides, as a sort of provisional boundary ; but the Spanish commander in Texas crossed that river with a body of irregular horse, and occupied the settlement at Bayou Pierre, on the Red River, a few miles above Natchitoches, the westernmost American military station. It was deemed necessary to repel this aggression, and orders were sent to General Wilkinson, at St. Louis, at once commander-in-chief of the American army and governor of the Louisiana Territory, to re-enforce, from the posts in Louisiana, the four or five hundred regulars in the Territory of Orleans, and himself to take command there, with the view of driving back the Spaniards.

These difficulties with Spain, however embarrassing, were of far less importance than the relations with Great Britain, which had begun to assume a very dubious character. During the previous summer, in an earnest correspondence with Merry, successor to Liston as minister from the British court, Madison had undertaken to maintain the doctrine, better sustained by a competent naval force than by any paper arguments, that a neutral flag ought to protect from seizure or impressment all those sailing under it, of whatever nation they might be ; and Monroe had been instructed to urge the same thing at London. To these old difficulties about impressment were now added the new doctrines of the British admiralty courts as to the carrying trade.

The subject of the invasion of neutral rights by the belligerents had been referred, on the third day of the session, to the Committee of Ways and Means, against

the efforts of Bidwell, who wanted a special committee; but, though this committee early applied to the State Department for facts, they received no answer for several weeks. Meanwhile a new communication was made to Congress by the president, under an injunction of secrecy, of parts of Monroe's diplomatic correspondence from London, and also of various memorials from the maritime towns remonstrating against the new British doctrines. The Committee of Ways and Means also communicated to the House an elaborate report on neutral rights, which the Secretary of State had drawn up to be presented to the president, and which he had sent to the committee by way of answer to their inquiries. All these documents were referred to a Committee of the Whole, along with a resolution offered by Gregg, of Pennsylvania, proposing to retaliate upon Great Britain for her impressments and invasion of neutral rights by prohibiting all importations of goods the produce of Great Britain or any of her colonies.

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This was but a revival of Madison's old schemes for bringing Great Britain to reason by commercial restrictions. That it proceeded directly from the cabinet, or rather from Jefferson and Madison—for the other members seem not to have been consulted—may well be conjectured from the republication not long previously in the *National Intelligencer* of the non-importation, non-consumption, and non-exportation agreement of 1774, accompanied by some very grandiloquent observations in the usual style of that journal, which foreshadowed the whole course of policy ultimately pursued. "What would England say to an imposition of heavy duties on her manufactured fabrics, the want of which we could supply in other markets? What would she say to refusing permission to any of her ships to enter our har-

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bors? What would she say to withholding all supplies from her islands? What would she say to an embargo? 1806. What would she say to a prohibition of all intercourse? Pacific as the disposition of America is, it may be that the storm will burst before foreign nations are aware of it. But let them recollect that the thunder has long rolled at a distance—that they were long since warned of the danger of awakening the lion."

Feb. 5. Smith, of Maryland, as chairman of a Senate committee to whom had been referred the subject of British aggressions, reported in favor of the imposition of duties on certain enumerated articles, to take effect within a limited time, if Britain did not previously give satisfaction.

This system of policy was very warmly opposed by Randolph as leading directly to war. As to the impressment of our seamen, he suggested that, although it was now made very much of by certain speakers, being a grievance well calculated to touch the popular feeling, yet that the nation had been content to bear it under three administrations for twelve years past, not indeed, without indignant remonstrances, yet without pushing the matter to extremity; nor did he see any ground, at present, for a change of policy in that particular.

His views on the subject of neutral rights will appear by the following extract from one of his speeches "What is the question in dispute? The carrying trade. What part of it? The fair, the honest, the useful trade which is engaged in carrying our own productions to foreign markets and bringing back their productions in exchange? No, sir; it is that carrying trade which covers enemy's property, and carries, under a neutral flag, coffee, sugar, and other colonial products, the property of belligerents. If this great agricultural country is to be governed by Salem and Boston, New York and Phila-

delphia, Baltimore, and Norfolk, and Charleston, let gentlemen come out and say so, and let a committee of safety be appointed from those towns to carry on the government. I, for one, will not mortgage my property and my liberty to carry on this trade. The nation said so seven years ago. I said so then, and I say so now. It is not for the honest trade of America, but for this mushroom, this fungus of war—for a trade which, so soon as the nations of Europe are at peace, will no longer exist—it is for this that the spirit of avaricious traffic would plunge us into war.

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“I will never consent to go to war for that which I can not protect. I deem it no disgrace to say to the leviathan of the deep, we are unable to contend with you in your own element, but if you come within our actual limits, we will shed our last drop of blood in defense of our territory. I am averse to a naval war with any nation whatever. I was opposed to the naval war of the last administration; I am as ready to oppose a naval war by the present administration, should they contemplate such a measure.”

On these questions of going to war in defense of neutral rights, or the rights of seamen, Randolph spoke the sentiments of the great bulk of the supporters of the administration from the Southern and Middle States—indeed, those of the administration itself. To go to war with Great Britain was at this time the last thing in the intention of the government. Madison had always maintained, from the first Congress downward, that his scheme of commercial compulsion was pacific in its nature; and the present bill was advocated in the House, in opposition to Randolph, by most of the administration members as an eminently peaceful measure. Yet already appeared the germ of that war party which ulti-

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mately got the control of the government, and plunged Madison, in spite of himself, into a war which he deprecated. Crowninshield dwelt with animation, should war result, upon the ease with which Canada and Nova Scotia might be taken by the militia of Vermont and Massachusetts alone, and the immense damage which might be done to British commerce by American privateers.

"Because, during the Revolutionary war," said Randolph in reply, "at a time when Great Britain was not mistress of the ocean, privateers of this country trespassed on her commerce, the gentleman from Massachusetts has settled it that we are not only capable of contending with Great Britain on the ocean, but that we are, in fact, her superior. To my mind, nothing is more clear than that, if we go to war with Great Britain, Charleston and Boston, the Chesapeake and the Hudson, will be invested by British squadrons. Will you call on the Count de Grasse to relieve you, or shall we apply to Admiral Gravina, or Admiral Villeneuve, to raise the blockade?" This last question was particularly pointed, news having just arrived in America of the total defeat of the combined Spanish and French fleets, commanded by these two admirals, in the famous battle of Trafalgar, by which the naval power of Bonaparte was annihilated.

"But not only is there a prospect of gathering glory, and, what seems to the gentleman from Massachusetts much dearer, profit from privateering, you will be able also to make a conquest of Canada and Nova Scotia. Indeed! Then, sir, we shall catch a Tartar. I have no desire to see on this floor representatives of the French Canadians, or of the Tory refugees of Nova Scotia."

He questioned the policy of throwing the United States, from any motive, into the scale of France, so as to aid the views of her gigantic policy, aiming at supreme dominion

by sea as well as by land. "Take away the British navy," he exclaimed, "and France to-morrow is the tyrant of the ocean." Randolph had not, like so many other of his late party associates, transferred to the Emperor Napoleon that extravagant attachment which he had once entertained for the French republic. He had begun, indeed, so far to agree with the Federalists as to regard Great Britain, in the struggle going on in Europe, as the champion of the liberties of the world against an audacious aspirant to universal empire.

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The tameness of the administration toward the Spaniards, who had actually invaded our territory, and whom it would be easy to meet, was very sarcastically contrasted with the administration's readiness to risk a war with Great Britain; a war which must be mainly on the ocean, and which there could be no hope of carrying on effectually, except as the ally of France. The impropriety of taking so hostile a step while negotiations with England were still pending was also strongly urged; especially as news arrived in the course of the debate of Pitt's death, and the accession to power of Fox, from whom a more favorable disposition toward America might reasonably be expected.

After great debates in both houses, this scheme of policy took its final shape in a law, founded upon a resolution offered by Nicholson, prohibiting the importation from Great Britain or her dependencies, or from any other country, of any of the following articles of British production: manufactures of leather, silk, hemp, flax, tin, or brass; woolen cloths above the invoice value of a dollar and a quarter the square yard; woolen hosiery, glass, silver or plated wares, paper, nails, spikes, hats, ready-made clothing, millinery, beer, ale, porter, playing-cards, pictures, or prints. But, to give time for in-

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intermediate negotiations, the commencement of the prohibition was postponed till the middle of November.

1806. This act passed the House by a pure party vote, ninety
March 26. three to thirty-two. The Federalists to a man voted against it, and along with them six or seven "Quids," as they were called—the whole number of partisans that Randolph could muster when it came to the question of separating from the administration.

Whatever may be thought of the general soundness of Randolph's judgment, or of the motives of his present opposition, certain it is that he took in this case the more statesmanlike view. But, in voting with him, the Federalists by no means accepted all his opinions. They did not join in his depreciation of the carrying trade, partly instigated, perhaps, by envy of the great fortunes which the Northern merchants were rapidly acquiring by it; and borrowed by him from a pamphlet recently published in England, entitled "War in Disguise; or, the Frauds of Neutral Flags," in which the new doctrines of the British admiralty courts were ably vindicated. The Federalists were far from considering neutral rights as not worth contending for, even at the risk of hostilities. Those rights, however, in their opinion, could derive little or no support from commercial restrictions, themselves a great embarrassment to commerce, and quite unsupported by any serious measures of preparation for war—measures which the ruling party seemed not at all inclined to adopt.

The old empty formality was indeed re-enacted of authorizing the president to call into service, should he deem it necessary, a hundred thousand militia or volunteers. A bill was also introduced prohibiting the exportation of arms; but it was dropped before reaching its final stage. An appropriation was made of \$150,000

for the fortification of forts and harbors—an amount ridiculed by the Federalists as not a quarter enough to fortify New York alone, but defended by the administration party on the ground that the Secretary of War had asked for no more, and that this sum was needed, not for new fortifications, but merely to keep the old ones in repair.

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A committee to whom that subject had been referred, had reported in favor of completing the six ships of the line. But so far was that measure from being adopted, that an appropriation was refused even for the repair of two or three of the frigates which had fallen into decay, the president being authorized to sell them instead. The great war measure adopted by Congress at this commencement of a struggle for maritime rights was the appropriation of \$250,000 for the building of fifty additional gun-boats. Under appropriations made during the hostilities with Tripoli, the *Hornet* sloop of war had been equipped. The *Wasp* was launched about this time. These two fine sloops were the last additions made to the American navy for more than six years, during all which time the prospect of war was imminent; nor was it till some time after war had actually broken out that the building of ships was recommenced. So far from laying up additional materials ready for use, the frames on hand, of the six ships of the line, were presently cut up for the additional gun-boats. Even the few vessels already possessed were mostly laid up in ordinary, and this at a time when, according to the president's own statement, in his opening message to Congress, our principal harbors were fairly blockaded, not only by belligerent ships of war little enough disposed to respect either the neutral rights or the laws of the United States, but by piratical privateers, which did not hesitate to capture

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American vessels on the flimsiest pretenses, even within American waters. The president, indeed, was nominally authorized to keep in actual service as many public armed vessels as he might deem necessary ; but the total number of seamen to be employed was limited to nine hundred and twenty-five—not enough to man three frigates, of which two were required for the Mediterranean service.

The Federal members had remarked, with some indignation, that, however grudging Congress might be of grants for the protection of commerce and shipping, all the large sums required for the benefit of the inland frontier, to carry out the treaties made the preceding summer with the Indians, were readily voted. To these were added several appropriations for internal improvements, the sum of \$30,000 being appropriated out of the treasury (but chargeable ultimately upon the two per cent. fund, under the compact with Ohio, of proceeds of the public lands) toward laying out a road over the Alleghany Mountains, from Cumberland in the State of Maryland, to the Ohio River—commencement of the famous Cumberland Road. The president was also authorized to expend \$6,600 in opening a road from Athens, on the frontier of Georgia, toward New Orleans ; also the sum of \$6000 upon another road from Cincinnati to the Mississippi, opposite St. Louis, through the territory just ceded by the Indians. A like sum was also appropriated towards re-opening the old road through the Chickasaw country from Nashville to Natchez.

The renewed African slave trade of South Carolina being carried on with great vigor, the question of a tax on slaves imported was again revived by Sloan. After some very angry debate, in which the blame of the traffic was bandied about between South Carolina, by which

the importation was allowed, and Rhode Island, accused of furnishing ships for the business, a bill, in spite of all the efforts of the ultra slaveholders, was ordered to be brought in by a decided majority. But the subject was finally allowed to go over to the next session, when it would be competent for Congress to provide for the final cessation of the traffic.

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General Eaton, returning from the Mediterranean, had arrived at Hampton Roads about the commencement of the session of Congress. He was received with many compliments at Richmond, on his way to Washington, and was honored there, in conjunction with Decatur, with a complimentary dinner, at which was present, among other guests, the famous General Moreau, lately exiled from France. The peace with Tripoli was generally ascribed to Eaton's enterprise and gallantry in getting up the attack upon Derne. The opinion, indeed, was entertained by many, that had he been duly supported, a much more favorable peace might have been obtained. Eaton freely expressed, especially when heated with wine, his disgust at what he called the "pusillanimous conduct and sly policy" of the administration; and the consequence was, that a resolution, early brought forward to honor him with a gold medal, was vehemently opposed, postponed, and finally lost. The Legislature of Massachusetts, in which state Eaton's family resided, presented him with ten thousand acres of wild land in the District of Maine; and he succeeded, though not without some difficulty and obstructions, in bringing his accounts with the United States to a settlement. The whole cost of the Derne expedition was about \$40,000. Congress also voted \$2400 for the temporary relief of the unfortunate Hamet, who had been landed at Syracuse by the American fleet, and who sent thence an indignant

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complaint at the bad faith with which he had been treated, his agreement with Eaton not having been carried out, and he himself having been left at Syracuse with a family of thirty persons, totally destitute of means of support.

The Tunisian ambassador, who had arrived about the same time with Eaton, had been received with much ceremony. He was entertained at the public expense, insisting, in fact, upon having the best house in Washington; and he visited, at the same expense, the principal cities. One advantage, at least, Jefferson derived from his presence; for just at the close of the session of Congress, under pretense of some inadmissible demands said to have been made by him, which might perhaps end in war, Congress was prevailed upon to continue the Mediterranean duties; and thus the whole scheme of the administration, as originally suggested by Bidwell in secret session, was carried out.

These sittings with closed doors, of which there had been several during the session, did not fail greatly to pique the public curiosity. The Federal prints triumphantly reminded the Democrats of the clamor which they had been accustomed to raise about secrecy in public transactions; and they asserted, not without grounds, that, ever since Jefferson's accession to office, a mystery had enshrouded the foreign relations of the country such as never had existed during the two preceding administrations. The secret gradually leaked out, and finally the journal of the secret session was directed to be published, though without any removal of the injunction of secrecy upon the members. Randolph complained that the published journal was garbled; and from his statement of the confidential communications to him by Madison and Gallatin, first made in one of the sittings with

closed doors toward the end of the session, the idea sprang up that the two millions voted in secret session was wanted as a bribe to France, thereby to induce her to compel Spain to come to a reasonable arrangement as to the boundaries of Louisiana. Such a counterpart to Monroe's old scheme of hiring France to compel Spain and Great Britain to do us justice, found at once very ready credence with the Federalists; and what served to confirm this belief was the carrying through of Logan's bill, rejected by the last Congress, for prohibiting all intercourse with Dessalines and his empire of Hayti—a law, however, which it was easier to enact than to enforce. Turreau and Talleyrand, with very little ceremony, had threatened war if such an act were not passed. Jackson and some other of the Southern members were inclined to put its passage on the ground of the general duty of discountenancing negro insurrection.

Jefferson's views of the state of foreign affairs, of the proceedings of Congress, and of the defection of Randolph, are apparent from letters written during the session. He assured Duane, of the *Aurora*, that the point of difference with Randolph was, that the administration "were not disposed to join in league with Britain under any belief that she is fighting for the liberties of mankind, and to enter into war with Spain, and, consequently with France,"—an artful appeal to Duane's strong anti-British antipathies—which feeling, indeed, joined to a panic terror of the power of France, seemed to form the key-stone of Jefferson's foreign policy. The battle of Trafalgar, by its destruction of the French marine, had completely disabled Bonaparte from any military or naval enterprises, so far as America was concerned. But, dazzled by the overthrow of Austria at Austerlitz, soon followed by the dissolution of the German Empire, and

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by the battle of Jena and the dismemberment of Prussia, Jefferson and his cabinet continued to look to France with a fear quite disproportioned to any power she had left of doing us injury, and with a sympathy, too, notwithstanding her lapse from republican principles, which common hostility to Great Britain continued to inspire.

April 19.

Yet though recent events had contributed to enflame his hostility to Great Britain, Jefferson's preference of negotiation to force was by no means confined to the case of Spain. An earnest seemed to be given that a sincere negotiation was intended with the British also by the nomination and appointment, just at the close of the session, of William Pinkney, of Maryland, as joint commissioner with Monroe for that purpose. Pinkney had first risen to notice by his earnest advocacy of Jay's treaty, under which he had been subsequently appointed one of the commissioners for the adjudication of American claims against the British, in which capacity he had resided for several years at London. Since his return he had confined himself to the practice of his profession, and in that capacity had risen to the head of the Maryland bar. It was to strengthen the hands of these negotiators that the prospective restrictions on importations from England had been enacted.

April 13.

But though the administration had succeeded in carrying all their measures through Congress, their weakness in that body was sensibly felt. "I wish sincerely," so Jefferson wrote to Wilson C. Nicholas, "you were back in the Senate, and that you would take the necessary measures to get yourself there. Perhaps, as a preliminary, you should go to our Legislature. Giles's absence has been a most serious misfortune. A majority of the Senate means well. But Tracy and Bayard are too dexterous for them, and have very much influenced their

proceedings. Tracy has been on nearly every committee during the session, and for the most part the chairman, and, of course, drawer of the reports. Seven Federalists voting always in phalanx, and joined by some discontented Republicans, some oblique ones, some capricious, have so often made a majority as to produce very serious embarrassment to public operations; and very much do I dread the submitting to them, at the next session, any treaty which can be made either with England or Spain, when I consider that five joining the Federalists can defeat a friendly settlement of our affairs.

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"The House of Representatives is as well disposed as ever I saw one. The defection of so prominent a leader (Randolph) threw them into confusion and dismay for a moment; but they soon rallied to their own principles, and let him go off with five or six followers only. One half of these are from Virginia. His late declaration of perpetual hostility to this administration drew off a few others who at first had joined him, supposing his opposition occasional only and not systematic. The alarm the House has had from this schism has produced a rallying together and a harmony which carelessness and security had begun to endanger."

Randolph's declaration of eternal hostility to the administration was not without a strong bearing on the next presidential election. Within two or three years past a new Republican paper had been established at Richmond, called the Enquirer, and edited by Thomas Ritchie, who was described in a cotemporary Federal journal as "a young man who seems to have his brain confused by a jumble of crude and absurd notions, which he mistakes for philosophy." But a little confusion of ideas is seldom of any disadvantage to a party politician;

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and Ritchie wrote in a warm, flowing, gossipy style, and with a degree of tact and ability, and especially of earnestness, which soon placed his paper very decidedly at the head of the Southern journals. Shortly after Jefferson's second inauguration, apprehensions had begun to be expressed, both in the *Enquirer* and the *Aurora*, that Jefferson might be pressed to stand for a third term, against which those papers warmly protested, as leading directly toward despotism; very apt to be the result, as they observed, of too implicit a confidence in their leaders on the part of the people; and presently the *Enquirer* took upon itself to declare, upon what authority does not clearly appear, that Jefferson would not consent to be a candidate for a third election.

Madison had long been marked out by Jefferson, at least so far as their private correspondence went, as his destined successor. Of course, the president must be selected from Virginia. But Monroe had warm friends; Randolph and all the discontented Southern Democrats rallied about him, and the *Aurora* was also inclined to give him support. Seeing that a serious controversy was likely to arise, Jefferson at once took up a position of apparent neutrality; but in a letter to Monroe, he warned him against Randolph as a partisan likely to do him more harm than good.

May 4.

While Jefferson thus confined himself, as usual, to epistolary correspondence, Randolph presently took the field in a long communication, published in the *Richmond Enquirer* (with some apologies on the part of the editor for this seeming opposition to the administration, and for violating the Congressional injunction of secrecy), in which a full history was given of all the proceedings in secret session in relation to the appropriation of the two millions for extraordinary diplomatic expenses.

August.

The *Aurora*, smarting, as its enemies alleged, under the loss of its printing and stationery contracts, inclined to support Randolph's views, and assailed the administration with a good deal of vigor, but this joint attack failed, entirely, to produce the effect which its authors seem to have expected from it.

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Meanwhile the local politics of Pennsylvania continued in a very agitated state. M'Kean having secured his re-election by the combined votes of the Constitutionalists and the Federalists, had exercised his prerogative by turning out of the offices held at his pleasure all the active Friends of the People—in other words, all the more vehement Democrats. As a reward to the Federalists for their aid, the chief justiceship of the state, on Shippen's resignation, was given to William Tilghman, one of the Federal judges whom the repeal of Adams's judiciary act had stripped of their offices. A host of libel suits were also commenced by the governor; and the *Aurora* exclaimed that the reign of terror had begun! Fortunately, however, for Duane, the new chief justice, while not inferior to M'Kean in legal knowledge, far surpassed that Democratic champion in moderation, calmness, sentiment of equity, and sincere regard for the freedom of the press. Not long after Tilghman's appointment, Duane was bound over by the mayor of Philadelphia on a criminal charge of libel. Following the precedent established by M'Kean in Cobbett's case, the mayor required him to give security to keep the peace in the mean time. But Duane had once already been caught in that trap. He refused to give security, went to jail, and was taken thence on habeas corpus before Chief-justice Tilghman, who, without absolutely declaring M'Kean's conduct in Cobbett's case illegal, yet refused to follow it as a precedent, and discharged Duane with-

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out requiring securities; thus giving a final quietus to that formidable contrivance for muzzling the press.

1806. The sickness of Judge Patterson, leaving Pierrepont Edwards to sit as sole judge in the Circuit Court for the District of Connecticut, led to an attempt on his part to revive, for the benefit of the democratic party, the old Federal doctrine of a common law criminal jurisdiction in the United States courts. Under his instructions, a grand jury, specially selected by the Democratic marshal, found bills of indictment at common law against Tappan Reeve, one of the judges of the Superior Court of Connecticut, for writing, and against the publisher of a Litchfield paper for printing, an alleged libel against Jefferson. A young candidate for the ministry was also indicted, charged with having spoken disrespectfully of the president in a Thanksgiving sermon; and being arrested and carried to New Haven, where he had no acquaintances, he was obliged to lie a week in jail before he could obtain bail. Other similar indictments were afterwards found, especially one against the publisher of the Connecticut Courant, for having charged Jefferson with sending the two millions to Paris as a bribe to France. Five years after (1811), this latter case was finally adjudicated in the Supreme Court of the United States, upon which occasion the important decision was first formally made (though the Democratic party had always held to the doctrine) that the courts of the United States have no criminal jurisdiction not expressly conferred upon them by statute.

In Massachusetts the Democratic party continued to gain ground. Governor Strong was re-elected by a very small majority; but the Democrats obtained a majority in both branches of the Legislature, and with it the selection of the governor's council.

The politics of New York took, in some respects, a course similar to those of Pennsylvania. The Federalists, in those parts of the state where they had no hope of electing their own candidates, united with the Livingstons, or Lewisites, as they began now to be called, against the Clintonians, whose influence, in consequence, was pretty much circumscribed to the city of New York.

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Shortly after the adjournment of Congress, the citizens of New York were greatly excited by the death of Peirce, captain of a coasting vessel, killed within the jurisdiction of the United States by a cannon shot from the *Leander*, a British ship of war hovering off that harbor. To a request from the Common Council of that city for two or three ships to keep these foreign cruisers in order, the administration could only reply by sending a copy of the act of Congress for the naval peace establishment, and by an impotent proclamation ordering the offending vessel out of the waters of the United States. And yet, with a singular but characteristic disproportion of means to ends, Jefferson could write to Monroe, "We begin to broach the idea that we consider the whole Gulf Stream as of our waters, in which hostilities and cruising are to be frowned on for the present, and prohibited as soon as either consent or force will permit us. We shall never permit another privateer to cruise within it, and shall forbid our harbors to national cruisers."

April 28.

May 4.

V.—P P

CHAPTER XIX.

BURR'S MYSTERIOUS ENTERPRISE. AFFAIRS OF KENTUCKY
SECOND SESSION OF THE NINTH CONGRESS. ABOLITION
OF THE FOREIGN SLAVE TRADE. BONAPARTE'S CONTI
NENTAL SYSTEM. BERLIN DECREE. REJECTION OF THE
TREATY WITH GREAT BRITAIN. BURR'S TRIAL. AFFAIR
OF THE CHESAPEAKE. ALARMING STATE OF FOREIGN
RELATIONS.

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March 5.

THE late vice-president, Burr, had descended from office an utterly ruined and a desperate man, his passion for distinction, power, and wealth undiminished, but all regular and legitimate paths thereto wholly closed upon him. Already the seconds in his late duel with Hamilton had been found guilty, in New York, of being concerned in arrangements for the duel, and, under a recent statute to that effect, had been sentenced to twenty years' incapacity to hold any civil office. Should Burr return to New York, he could expect for himself no better fate. The New Jersey indictment for murder still hung over him; and though Governor Bloomfield had been his personal friend, in spite of all the urging of Dallas and others, he refused to direct a nolle prosequi to be entered. Burr's pecuniary were in no better state than his political affairs. His acceptance of the vice-presidency had interrupted his business as a lawyer, from which he had derived large profits; his creditors had seized all his property, and he remained overwhelmed with enormous debts.

April.

Very shortly after the expiration of his term of office, he departed, with several nominal objects in view, on a

journey to the West. One was a speculation for a canal round the Falls of the Ohio, on the Indiana side, which he seems to have projected along with Dayton, of New Jersey, whose senatorial term had just expired, and whose extensive purchases of military land warrants had given him a large interest in the military bounty lands in that vicinity. Burr had offered a share in this speculation to General Wilkinson, the commander-in-chief of the army, and just appointed governor of the new Territory of Louisiana, including all the region west of the Mississippi, and north of the present state of that name. Burr and Wilkinson had known each other in the Revolutionary army, and being both remarkable for social qualities and accomplished manners, had long been on intimate terms, and had carried on a correspondence occasionally in cypher—a military expedient, to the use of which, with others as well as Burr, Wilkinson seems to have been partial, even when the occasion for it was but slight. Of a very speculative turn, but without talents for pecuniary business, and with small pecuniary resources, Wilkinson was a man of ardent ambition, and large desires; and Burr seems to have reckoned confidently upon securing his co-operation—a thing of the utmost importance, as his official position, both civil and military, would make him a very efficient agent. Another nominal object of Burr's Western tour was to present himself in Tennessee, where no previous residence was required, as a candidate for Congress. This idea, suggested by Matthew Lyon, whose own district bordered upon Tennessee, had been warmly pressed upon Burr by Wilkinson, under the apprehension, as he afterward alleged, that, unless some legitimate position could be found for him, Burr would be driven into desperate and illegal enterprises.

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About the time that Burr left Washington, Wilkinson was departing to take possession of his government of Louisiana, and he invited Burr to embark with him at Pittsburg, and to descend the river in his company. The vessels then chiefly employed in descending the Ohio were arks—chest-like boats, square at the ends, which admitted of being fitted up with every comfort for a small number of passengers, and which floated down with the current. As Burr's own boat was first ready, he declined to wait for Wilkinson, and proceeded alone. He soon overtook Lyon, descending the river on his way home, and in his company floated down to Marietta. Lyon proceeded on his voyage, but Burr stopped at Blennerhasset's Island, nearly opposite Marietta, and there he acquired a most zealous, devoted, and enthusiastic partisan. This was Herman Blennerhasset, an Irishman, possessing by inheritance a considerable fortune, a man of education and refinement, who had withdrawn from Europe under the influence of certain politico-romantic notions, common in Great Britain toward the close of the eighteenth century—the same in which Southey and Coleridge had deeply shared. Retiring to the frontier settlements, Blennerhasset had invested a considerable part of his fortune in erecting, near Marietta, on an island in the Ohio, which soon became known by his name, an elegant mansion surrounded by gardens and conservatories—furnished in a style as yet unknown beyond the mountains, and provided with a large and valuable library—a little Eden of civilization in the midst of the wilderness. As if to give completeness to this romantic picture, Blennerhasset had a wife no less enthusiastic and accomplished than himself; and she, even more, if possible, than her husband, appears to have been captivated by the arts of Burr, whose success

with the fair sex was the very thing on which he most prided himself. Blennerhasset had some interest in a mercantile firm at Marietta, but appears to have had no great business capacity, and but little knowledge of the world. His excitable imagination was at once set on fire by the grand and splendid projects which Burr unfolded. Perhaps, too, the insufficiency of his income for the style of life he had adopted, no less than the promptings of his own ambition and that of his wife, made him ready to risk what he had in the hope of princely returns.

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After considerable delay at this agreeable spot, Burr resumed his voyage, and at Louisville, then an unhealthy and inconsiderable village, he again overtook Lyon, who had been detained there by business, and by whom he was told that his delay in pressing forward had ruined his chance of being elected from Tennessee. Nevertheless, he accompanied Lyon to his home at Eddyville, up the Cumberland River, whence he proceeded on horseback to Nashville, where he was honored with a very cordial and enthusiastic public reception. After remaining a few days, he returned to Eddyville in a boat furnished by General Andrew Jackson, a resident in the neighborhood, who had formerly known Burr while they were both members of Congress, and who had received him with great hospitality. Nothing had been said at Nashville as to his being a candidate for Congress; but he still urged Lyon to write on the subject to a gentleman there, from whom he had received great attention—probably Jackson—at the same time observing that he might be a delegate from the Orleans Territory, but that he should prefer to enter Congress as a full member.

May 23

Having resumed his voyage in his own boat, Burr met Wilkinson, then on his way to St. Louis, at Fort Mas-

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June 25. Burr found the Territory of Orleans in a state of great excitement, such as might well furnish encouragement to his projects. Governor Claiborne was exceedingly unpopular with a part of the inhabitants, of whom Clark was a leader. The introduction of the English forms of law proceedings, and the very slight participation in the administration of affairs allowed to the inhabitants—for as yet the legislators as well as the governor were all appointed by the president—had occasioned great discontents. Among the French Creoles and the old settlers of British birth, attachment to the American connection was not likely to be very strong; while even the new American immigrants, among whom Edward Livingston was a leader, were divided and distracted by very bitter feuds.

After a short stay at New Orleans, Burr reascended to Natchez in the Mississippi Territory, whence he traveled by land, along the road or bridle path, through the Indian Territory, four hundred and fifty miles to Nashville, where he was again entertained for a week by
Aug. 6. General Jackson, "once a lawyer," so he remarked in

the journal which he kept for the entertainment of his daughter, "afterward a judge, and now a planter—a man of intelligence, and one of those prompt, frank, ardent souls whom I love to meet." Having been again complimented with a public dinner at Nashville, he proceeded to Kentucky, and after spending a few weeks there, departed by land, through the Indiana Territory, on his way to St. Louis, where he took up his residence with a relation of his, who had been appointed, at his special request, the secretary of the new Louisiana Territory.

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It was during this visit to St. Louis that Burr's altered and mysterious manner, and the unexplained hints which he threw out of a splendid enterprise, first excited in Wilkinson's mind, according to his own account, definite suspicions as to Burr's designs. He spoke, indeed, of this enterprise as favored by the government; but he spoke, at the same time, of the government itself as imbecile, and of the people of the West as ready for revolt. So much was Wilkinson impressed, that he wrote to his friend Smith, the Secretary of the Navy, that Burr was about something, whether internal or external he could not discover, and advising to keep a strict watch upon him; at least Wilkinson's aid-de-camp afterward testified that such a letter was copied by him, and, as he believed, dispatched through the post-office, though Smith did not recollect having received it.

Burr presently left St. Louis, carrying with him a letter from Wilkinson to Harrison, governor of the Indiana Territory, strongly urging the use of his influence to get Burr chosen a delegate to Congress from that territory—a letter written, as Wilkinson alleged, under the confirmed impression that nothing but the being put into some legitimate career would save Burr from very dangerous courses. From the Indiana Territory Burr con-

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tinued his route eastward, stopping at Cincinnati, Chillicothe, and Marietta, whence, toward the end of the year, he returned to Philadelphia. That winter, and the following spring and summer, he spent partly in Philadelphia and partly in Washington. While in Philadelphia, he resided in a small house in an obscure street, where he was visited by many persons, apparently on business, all of whom he received with a certain air of precaution and mystery, and no two of whom did he see at the same time.

At Washington, during that winter, Burr sought and obtained frequent intercourse with Eaton, who had then lately returned from the Mediterranean, in no very good humor with the government. He told Eaton that he had already organized a secret expedition against the Spanish provinces of Mexico, in which he asked him to join; and Eaton, under the impression, as he said, that the expedition was secretly countenanced by government—to which the state of Spanish relations and the Miranda expedition then on foot, might well give color—gave him encouragement that he would. Burr then proceeded to further confidences, such as excited suspicions in Eaton's mind as to the real character of his intended enterprise. He seemed anxious to increase to the utmost Eaton's irritation against the government, which he accused of want of character, want of gratitude, and want of justice. Wishing, according to his own account, to draw Burr out, Eaton encouraged him to go on, till finally he developed a project for revolutionizing the Western country, separating it from the Union, and establishing a monarchy (it was just at this time that Bonaparte was making kings of all his family), of which he was to be sovereign; New Orleans to be his capital; and his dominion to be further extended by a force organized on

the Mississippi, so as to include a part or the whole of Mexico. He assured Eaton that Wilkinson was a party to this enterprise, and would no doubt be able to carry with him the regular troops on the Western waters, who might easily be re-enforced by ten or twelve thousand Western volunteers. He had, besides, so he asserted, agents in the Spanish provinces, and many persons there were ready to co-operate. He spoke of the establishment of an independent government west of the Alleghanies as an inherent right of the people, as much so as the separation of the Atlantic States from Great Britain—an event which, like that, must sooner or later take place, and to which existing circumstances were specially favorable. There was no energy in the government to be dreaded; in fact, the power of the government was in a manner paralyzed by the deep and serious divisions in political opinion prevalent throughout the Union. Many enterprising men, who aspired to something beyond the dull pursuits of civil life, would be ready to volunteer in this enterprise. The promise of an immediate distribution of land, with the mines of Mexico in prospect, would call multitudes to his standard.

Warming up with the subject, he declared that, if he could only secure the marine corps—the only soldiers stationed at Washington—and gain over the naval commanders, Truxtun, Preble, Decatur, and others, he would turn Congress neck and heels out of doors, assassinate the president, seize on the treasury and navy, and declare himself the protector of an energetic government. To which Eaton, according to his own statement, replied, that one single word, *usurper*, would destroy him; and that, though he might succeed at Washington in the first instance, within six weeks after he would have his throat cut by the Yankee militia.

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Satisfied that Burr was a very dangerous man, but having no overt act, nor even any writing, to produce against him, Eaton waited on the president, and suggested to him the appointment of Burr to some foreign mission, giving as a reason for it that, if he were not so disposed of, there would be, within eighteen months, an insurrection, if not a revolution, in the Western country. The president replied that he had too much confidence in the attachment of the Western people to the Union to allow him to entertain any such apprehensions. No questions were asked as to the origin of these fears on Eaton's part; and as Eaton's relations to the government at that moment were somewhat delicate, he pressed the subject no further. He did, however, communicate to Dana and to John Cotton Smith, members of Congress from Connecticut, the substance of Burr's conversations. They admitted that Burr was capable of any thing, but regarded his projects as too chimerical, and his circumstances as too desperate to furnish any ground for alarm.

To Truxtun, who was greatly dissatisfied at the cavalier manner in which his name had been dropped from the navy list, Burr suggested the idea of a naval expedition against the Spanish provinces. He assured Truxtun that, in the event of a war with Spain, which seemed then very probable, he intended to establish an independent government in Mexico; that Wilkinson and many officers of the army would join in the project; and that many greater men than Wilkinson were concerned in it. He several times renewed his invitation, till Truxtun, understanding that the project was not countenanced by government, declined to have any thing to do with it.

The same idea was also broached to Decatur, who also declined to co-operate. To how many others similar advances may have been made, or what co-operation Burr

actually secured, is not distinctly known; but it is certain that Jonathan Dayton, who had played so conspicuous a part as a representative and senator from New Jersey, as well as some other persons in New York and its vicinity, were concerned to a greater or less extent in the enterprise, and advanced money to forward it.

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Toward the end of the summer Burr departed upon a second Western journey. A rumor had prevailed for more than a year at the same time in Philadelphia and New Orleans, and had spread through all the intervening country, that Burr was at the bottom of a project for effecting a revolution in Mexico—an idea sufficiently agreeable to the great body of the Western people, and, considering the existing difficulties with Spain and the affair of Miranda's expedition, likely enough to be secretly favored by the government. Under the impression that such was the fact, Burr and his project seem to have received a certain degree of countenance from several leading persons in the Western country. But how many, and who, and, indeed, whether any were fully and distinctly informed of the real character of the enterprise, and, having that information, had undertaken to co-operate, does not appear. Nor, indeed, does any distinct evidence exist as to what was the exact nature and extent of the enterprise intended, if, indeed, the author of it himself had any precise and definite plan.

August

One of the first things which Burr did on arriving in Kentucky was to purchase of a Mr. Lynch, for a nominal consideration of \$40,000, of which a few thousand were paid, an interest in a claim to a large tract of land on the Washita, under a Spanish grant to the Baron de Bastrop. Edward Livingston, at New Orleans, had been speculating on this same grant. His claims to it Lynch had purchased for \$30,000; and Burr was to pay that

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amount to Livingston, against whom he had demands, as part of the purchase money. These lands, situate on the upper waters of the Washita, were not many miles distant from the left bank of the Mississippi, just below the mouth of the Arkansas; but, owing to the swampy and often inundated state of the intervening country, they could not well be approached except by descending the Mississippi and ascending the Washita—a circuit of several hundred miles. The pretense of an intention to settle these lands might serve to cover a very different enterprise; and, should that enterprise fail, such a settlement might really be undertaken.

Burr himself, in company with Blennerhasset, entered into a contract for building fifteen boats on the Muskingum, a few miles above Marietta, toward which \$2000 were advanced in a draft on New York. Application also appears to have been made to John Smith, one of the Ohio senators, and contractor to furnish supplies to the troops in the West, to purchase two gun-boats which Smith was building on the Ohio for the government. This purchase was not effected; but there are reasons for believing that Smith was, to a certain extent at least, acquainted with and favorable to Burr's projects.

Authority was given to a house at Marietta, the same in which Blennerhasset had lately been a partner, to purchase provisions; and a kiln was erected in Blennerhasset's island for drying corn so as to fit it for shipment. Other similar preparations were made elsewhere, but not, so far as appears, to any great extent. Young men were also enlisted, in considerable numbers, for an enterprise down the Mississippi, as to which mysterious hints were thrown out, but the true nature of which did not distinctly appear.

Wilkinson, meanwhile, in obedience to his orders,

mentioned in the preceding chapter, had arrived at Natchitoches, and had assumed command of the five or six hundred regular troops collected there to oppose the Spanish invasion. A few days after his arrival, and while busy in preparations for advancing on the Spaniards, Samuel Swartwout, brother of Burr's friend, Colonel John Swartwout, lately removed from his office of Marshal of New York, made his appearance in the camp with a letter of introduction from Jonathan Dayton to Colonel Cushing, the senior officer next to Wilkinson. He also had with him another letter, which he took opportunity to slip unobserved into Wilkinson's hand, being a formal letter of introduction from Burr, and inclosing another, dated July 27th, just before Burr's departure for the West, written principally in cipher.

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Oct. 8.

Since Burr's visit to St. Louis the preceding autumn, Wilkinson had received from him several short letters, some of them in cipher, alluding to an enterprise which he had on foot, the tenor of which would seem to imply that Wilkinson was privy to the enterprise, if not a party to it. Wilkinson had also written to Burr; but of the precise contents of his letters we are ignorant. Burr afterward, on his trial, intimated that these letters implicated Wilkinson as privy to all his designs, excusing the non-production of them by alleging that he had destroyed them. Wilkinson admitted having written, but merely with the design to draw out Burr. He had kept no copies, nor did he precisely recollect the tenor of his letters.

Burr's letter in cipher, brought by Swartwout, which Wilkinson succeeded in partially deciphering the same evening, announced, in broken sentences and mysterious tone, that he had obtained friends; that detachments from different points and under different pretenses would

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rendezvous on the Ohio by the first of November; that the protection of England had been secured; that Truxton had gone to Jamaica to arrange with the English admiral on that station; that an English fleet would meet him on the Mississippi; that the navy of the United States was ready to join; that final orders had been given to his friends and followers; that Wilkinson should be second to Burr only, and should dictate the rank and promotion of his officers; that orders had been already given to the contractor for provisions to forward supplies for six months to such points as Wilkinson should designate; that the people of the country to which they were going were ready to receive them, their agents then with Burr having stated that, if protected in their religion, and not subjected to a foreign power, all would be settled in three weeks. The letter requested Wilkinson to send an intelligent and confidential friend to confer with Burr, and a list of all persons west of the mountains who might be useful, with a note designating their characters; also the commissions of four or five of his officers, which he might borrow under any pretense, and which should be faithfully returned. It was stated to be the plan of operations to move rapidly from the Falls of the Ohio on the fifteenth of November, with the first detachment of five hundred or a thousand men, in light boats already constructing for the purpose, to be at Natchez in December, there to meet Wilkinson, and to determine whether it would be expedient to pass or to seize Baton Rouge, at that time in possession of the Spaniards as a part of West Florida. The bearer of the letter was stated to be a man of discretion and honor, thoroughly informed as to the plans and intentions of Burr, who would make disclosures so far as he was inquired of, and no further.

Inclosed in the same packet was another letter, also in cipher, from Jonathan Dayton, in which Wilkinson was assured that he would certainly be displaced at the next session of Congress; "But," added the letter, "you are not a man to despair, or even to despond, especially when such prospects offer in another quarter. Are you ready? Are your numerous associates ready? Wealth and glory! Louisiana and Mexico! Dayton."

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The tenor of these letters, and the previous intimacy and correspondence between Wilkinson and Burr, have given occasion to conclude that Wilkinson really was, in the first instance, a party to Burr's designs; and that Burr, when he wrote the ciphered letter of which Swartwout was the bearer, had good reason to rely on Wilkinson's co-operation. This was specially urged by Burr and his counsel during Burr's trial, with the object of invalidating Wilkinson's testimony; and the same view was afterward taken up and urged with great pertinacity by Wilkinson's numerous enemies in Congress and out of it. Yet the tone of Burr's and Dayton's letters is hardly that of one conspirator to another, between whom a definite plan of co-operation had been arranged. It is rather like throwing out a lure, making loud boasts and round assertions, many of them totally and wilfully false, with the design of attracting a partisan whose hopes and fears were alike to be operated upon. Besides, an artful man like Burr, in writing to one whom he hoped to gain over, would naturally guard against betrayal by employing such terms as might expose the recipient to suspicion, while he avoided implicating himself by anything tangible or specific enough for the law to lay hold of.

One thing, at least, is certain. Wilkinson, after deciphering the letter so far as to obtain a general idea of

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its contents, did not hesitate a moment as to the course he should adopt. He communicated the next morning to Colonel Cushing, his second in command, the substance of Burr's letter; stating also his intention to march as speedily as possible for the Sabine, and, having made the best terms he could with the Spanish commander, to hasten back to New Orleans, to defend that city against Burr, should he venture to attack it. Meanwhile, he proceeded to extract from Swartwout all the information he could—information which served to raise his alarm to a very high pitch.

Swartwout stated that, in company with a Mr. Ogden, he had left Philadelphia while Burr was still in that city. They had proceeded to Kentucky with dispatches for General Adair—lately appointed a senator in Congress in place of Breckenridge, made attorney-general—and a party to the enterprise. Having delivered these letters, they had hastened across the country from the Falls of the Ohio to St. Louis in search of Wilkinson; but learning at Kaskaskia that he had descended the river (a circumstance on which Burr had not calculated, and which served, in the end, effectually to defeat all his plans), they had procured a skiff, and had followed on to Fort Adams, nearly opposite the mouth of Red River. Being told there that Wilkinson had gone to Natchitoches, Ogden kept on down the Mississippi with dispatches for Burr's friends in New Orleans, while Swartwout had ascended Red River to the camp. He expressed surprise that Wilkinson had heard nothing of Dr. Bollman, another agent of Burr's, who had proceeded by sea from Philadelphia to New Orleans, and must before this time have arrived there. He stated that Burr, supported by a numerous and powerful association, extending from New York to New Orleans, was about

levying a force of seven thousand men for an expedition against the Mexican provinces, and that five hundred, the vanguard of this force, would descend the Mississippi under Colonel Swartwout and a Major Tyler. The territory of Orleans would be revolutionized, for which the inhabitants were quite ready. "Some seizing," he supposed, would be necessary at New Orleans, and a forced loan from the bank. It was expected to embark about the first of February. The expedition was to land at Vera Cruz, and march thence to Mexico. Naval protection would be afforded by Great Britain. Truxtun and the officers of the navy, disgusted with the conduct of the government, were ready to join, and, for the purposes of the embarkation, fast-sailing schooners had been contracted for, to be built on the Southern coast of the United States.

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Swartwout returned to New Orleans after remaining in the camp ten days, during which Wilkinson extracted from him all the information he could without giving any hint of his own intentions. Meanwhile Wilkinson had succeeded in procuring transportation for his baggage, and, having been joined by a body of volunteer militia from Mississippi, he advanced toward the Sabine. But before setting out, he dispatched Lieutenant Smith as an express, with directions to make the utmost haste, with two letters to the President of the United States, one official, the other confidential, in which, without mentioning any names, he stated the general outline of the scheme communicated to him by Swartwout. In his confidential letter, he gave as a reason for mentioning no names that, although his information appeared to be too distinct and circumstantial to be fictitious, yet the magnitude and desperation of the enterprise, and the great consequences with which it seemed to be pregnant, were

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such as to stagger his belief, and to excite doubts of its reality, even against the conviction of his senses. It was his desire not to mar a salutary design, nor to injure any body, but to avert a great public calamity; and what made him the more cautious was, that among other allurements held out to him, he was told—though, considering his own orders to avoid, if possible, any collision with the Spaniards, he could not believe it—that the government connived at the plan, and that the country would sustain it. Were he sure that the combination for attacking Mexico were formed in opposition to the laws and in defiance of government, he could not doubt that the revolt and revolutionizing of the Territory of Orleans would be the first step in the enterprise; and, notwithstanding his orders to repel the Spaniards to the other side of the Sabine, he should not hesitate to make the best arrangement he could with the Spanish commander, so as to hasten at once to New Orleans. The defensive works of that city had mouldered away, yet, by extraordinary exertions, it might in a few weeks be rendered defensible against an undisciplined rabble acting in a bad cause. As matters stood, however, he deemed it his first duty to execute his orders against the Spaniards. Simultaneously with this letter to the president, Wilkinson sent directions to the commanding officer at New Orleans to put that place in the best possible condition of defense, and especially to secure, by contract if possible, but at all events to secure, a train of artillery belonging to the French government, which the administration had been too parsimonious to purchase, but which the French had yet had no opportunity to remove, and which might now fall into bad hands.

As the American forces advanced upon the Spaniards, they retired behind the Sabine, leaving a rear guard on

the western bank of that river. A messenger was dispatched to the Spanish camp; and, after some negotiation, a temporary arrangement was entered into that the Sabine should be, for the present, the line of demarcation between the two nations. Leaving Cushing to bring down the troops, Wilkinson hastened back to Natchitoches, where he received a letter from Bollman, dated at New Orleans, covering a duplicate of Burr's letter in cipher, and also a letter, partly in cipher, from Dayton, different in its precise tenor, but in general substance much the same with that brought by Swartwout. Just about the same time he also received a letter from a gentleman at Natchez, stating the arrival there of a person from St. Louis in thirteen days, bringing a report that a plan to revolutionize the Western country was just ready to explode—Ohio, Indiana, Kentucky, Tennessee, and the Territory of Orleans having combined to declare themselves independent on the 15th of November. This letter gave new impulse to Wilkinson's alarm. He wrote to Cushing to hasten down the troops with the greatest possible dispatch, and to the officer commanding at New Orleans, to whom he sent a re-enforcement of men and artificers, to press forward his defenses, but without giving any signs of alarm, or any indication of his reasons. Wilkinson himself proceeded with all dispatch to Natchez, whence, in the midst of a severe domestic bereavement in the death of his wife, he dispatched a second special messenger to the president with duplicates of his former communications, inclosed in a letter, in which he declared that all his doubts as to the reality of the conspiracy were now at an end, mentioning also the insufficiency of the means at his disposal, and the necessity of putting New Orleans under martial law; in which step he trusted to be sustained by the president. Wil-

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kinson exhibited to this messenger the ciphered letters he had received, and authorized him to name Burr, Dayton, Truxtun, and others, as apparently engaged in the enterprise.

He dispatched, at the same time, a confidential letter to Governor Claiborne, of the Orleans Territory, informing him that his government was menaced by a secret plot, and entreating him to co-operate with the military commander in measures of defense; but enjoining secrecy till he himself arrived. He also called on the acting governor of the Mississippi Territory for five hundred militia to proceed to New Orleans. But as he declined to specify the service for which he required them, the acting governor declined to answer the requisition.

Nov. 25.

Arrived at New Orleans, and being under apprehensions that Burr had many secret partisans in that city—a thing by no means improbable—and the rumors from up the river growing more and more alarming, a public

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meeting of merchants was called, before which Wilkinson and Claiborne made an exposition of Burr's suspected projects. The militia of the Territory was placed by Claiborne at Wilkinson's disposal; in addition to a small squadron of gun-boats and ketches in the river, vessels were armed and fitted out to repel the expected attack by sea, and a sort of voluntary embargo was agreed upon by the merchants in order that seamen might be got to man them. The Territorial legislature was also called together for a special session.

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After consultation with the governor and two of the judges, Wilkinson caused Bollman, Swartwout, and Ogden to be arrested, and confined on board some of the vessels of the squadron. A writ of habeas corpus having been issued in the case of Bollman by the Superior Court, Wilkinson appeared before the judges in full uni-

form, attended by his aids-de-camp, and made a return stating that, as a necessary step toward the defense of the city, menaced by a lawless band of traitors, he had arrested Bollman on his own responsibility, on a charge of misprision of treason; and that he would do the same with any other person against whom reasonable suspicions might arise. Indeed, he intimated very strongly that both Alexander and Livingston, the lawyers at whose instance the habeas corpus had issued, ought to be arrested. Bollman and Swartwout were sent prisoners by sea to Washington.

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Ogden was released on a writ of habeas corpus, granted by Judge Wortman, of the County Court, and directed to the officer in whose custody Ogden was. But both Ogden and Alexander the lawyer, who had obtained the writ, were shortly after taken into custody by Wilkinson's order, and to a new writ Wilkinson made the same return as in Bollman's case. Wortman himself was shortly after arrested, but was set at liberty by the judge of the United States District Court. New Orleans, thus subjected to martial law, presented a singular scene of doubts, alarm, and mutual suspicions and recriminations. The chief ground of suspicion against Livingston seems to have been that Burr had drawn upon him, in favor of Bollman, for \$1500; but this, Livingston insisted, was merely in discharge of an old debt. Among those arrested was Bradford, publisher of the only paper in New Orleans, which was thus brought to a stop.

While these events were occurring on the Lower Mississippi, much excitement prevailed on the waters of the Ohio and its tributaries. About the time of Burr's arrival in the Western country, a series of articles, signed Querist, had appeared in the Ohio Gazette, one of the

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four or five newspapers published at that time west of the mountains, arguing strongly in favor of the separation of the Western States from the Union. These articles were nominally written by Blennerhasset, but were believed to have been furnished in substance by Burr. Articles having the same tendency, though less bold and decided, had also appeared in the Commonwealth, a Democratic paper published at Pittsburg.

There had sprung up in Kentucky, on the part of some aspirants to political power, a great uneasiness at the existing monopoly of office and influence by the old Republican leaders. The circumstance of a draft on the Spanish government for a considerable amount, signed by Sebastian, one of those leaders, and now a judge of the Court of Appeals, and found among the effects of a Kentucky merchant, who had died during a visit to New Orleans, had revived the old story of Spanish pensioners in Kentucky—a story zealously seized upon as a means of destroying the influence of the old monopolists of political influence. Daviess, the United States District Attorney, had caught very eagerly at this affair, and early in the year had opened a correspondence with the president, under an injunction of the strictest secrecy, implicating, on mere suspicion, rumor, or guess, Wilkinson, Brown, late one of the Kentucky senators, and, indeed, most of the leading politicians of that state, as being, or having been, Spanish pensioners, and therefore likely, in case of a war with Spain, to play into her hands, and perhaps to bring about that separation of the Union which Spain had formerly instigated, and for which her partisans had labored, without being then able to accomplish it. Daviess even went so far as to abandon his plantation, and to make a journey of exploration down the Mississippi, for the purpose of unraveling

this plot. He went, however, no farther than St. Louis, and returned without discovering any thing.

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Meanwhile, there had been set up at Lexington a newspaper called the *Western World*, edited by that same Wood whose History of John Adams's administration Burr had formerly labored to suppress. By whom this paper had been started does not distinctly appear. Daviess denied, in his letters to the president, any agency in it. But its object evidently was to attack the alleged Spanish pensioners, and an able and well-informed correspondent was soon found in Humphrey Marshall, the former Federal senator, and a bitter enemy of the old clique, who took the opportunity to lay open matters connected with the separation of Kentucky from Virginia, of which the present inhabitants, consisting to so large an extent of recent immigrants, knew but little.

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The name of Wilkinson, against whom, also, Marshall entertained a mortal hatred, was freely used in connection with these alleged Spanish intrigues, of which he was represented as having been a chief manager; and the fact that certain large sums of money had been at different times remitted to him from New Orleans was urged as proof positive of his corrupt connection with the Spanish government.

The rumors in circulation of a new enterprise on foot under Burr's leadership, became connected, in the public mind, with those relating to the old Spanish plot, and Wilkinson's reputed connection with that gave additional credibility to the hints of Burr and his confederates of his being also connected with the new movement.

Some numbers of the *Western World*, containing imputations of this sort, which reached the Lower Mississippi, added not a little to Wilkinson's embarrassments.

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So currently, indeed, were he and Burr connected together by rumor, that General Jackson wrote to Governor Claiborne, suggesting that an enterprise was on foot against his territory, and warning him to be on his guard against internal as well as external dangers, and as well against Wilkinson as against Burr. "I hate the Dons," wrote Jackson; "I would delight to see Mexico reduced; but I would die in the last ditch before I would see the Union disunited." This letter of Jackson's having reached Claiborne about the time of Wilkinson's disclosures, made him pay the greater attention to them. Indeed it was one of the documents, the name of the writer and some passages of it being suppressed, which had been read at the public meeting in New Orleans, at which the existence of the plot and the consequent danger of the city had been first publicly announced.

In Kentucky, among the leading politicians, the imputations against Burr of criminal designs were very slow in finding credit. Those, indeed, who believed the charges in the Western World as to the old Spanish plot, looked also with very suspicious eyes on Burr's projects; but the adherents of those accused as Spanish pensioners were disposed, on the other hand, to treat both sets of rumors as alike futile and malicious.

Nov 5

Daviess, the district attorney, naturally kept a watchful eye on Burr. He wrote several times to the president on the subject, but without eliciting any specific directions. Finally, upon an affidavit sworn to by himself, that he had good reason to suspect Burr of meditating an unlawful expedition against Mexico, and also a separation of the Western States from the Union, he applied to the Federal District Court for process of arrest, and to hold Burr to recognizances for his appear-

ance to answer these charges, and for his good behavior in the mean time. The judge, Harry Innis, himself one of the old Spanish intriguers, after argument, refused to issue process, but directed a grand jury to be impanelled to inquire into the accusation, and witnesses to be summoned. Immediately after the announcement of this opinion, Burr appeared in court with his counsel, one of whom was Henry Clay, at that time a rising lawyer and politician, and just elected to the Senate of the United States to supply a vacancy of a single session occasioned by Adair's resignation. Great readiness was professed by Burr and his counsel for an immediate investigation; but as the witness chiefly relied upon by the district attorney—David Floyd, an undoubted partisan of Burr, then at Vincennes in his capacity of a member of the Indiana Legislature—failed to appear, the grand jury was discharged without further proceedings.

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It was not long, however, before the district attorney made an application for a new grand jury. This time he summoned General Adair as his principal witness; but as he too failed to appear at the appointed time, the attorney was obliged to ask a little delay. Thereupon Burr, with his counsel, again appeared in court, and insisted that the business should proceed at once. The attorney denied Burr's right to appear at all in this stage of the proceedings, as no bill had yet been found; but Burr's counsel pressed the matter with great zeal, and the judge finally told the attorney that, if he did not proceed, the grand jury would be dismissed. He also refused to allow the attorney to attend the grand jury and to examine the witnesses.

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Dec. 2

As the main witness was wanting, and as those present were all unwilling ones, with nobody to draw them out, the jury not only failed to find a bill against Burr,

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but they even went so far as to sign a paper, in which they declared their persuasion that nothing was intended by him injurious to the United States. Burr's triumph was celebrated by a ball at Frankfort; after which he suddenly departed for Nashville, in company with General Adair, against whom the district attorney had also presented a bill of indictment, which the jury refused to find.

October

N. v. 27.

Steps, however, were already in progress at the North, as well as the South, fatal to Burr's projects, whatever they might be. In consequence of various communications received from the West, the president had commissioned Graham, secretary of the Orleans Territory, then about to leave Washington on his way thither, to investigate the origin of the reports about Burr, and, if they appeared to be well founded, to apply to the governors of the Western States to take steps to cut short his enterprise. The matter appeared to the president in a more serious light in consequence of his being put in possession now, for the first time, of the communications which had passed during the previous winter between Burr and Eaton, and of which Eaton had made a statement to Granger, the post-master general, in consequence of having seen a letter from Ohio, in which it was stated that boats for Burr were building on the Muskingum. This communication from Eaton was followed up by Wilkinson's dispatches from Natchitoches, two days after receiving which the president issued a proclamation, declaring that he had been informed of an unlawful scheme set on foot for invading the Spanish dominions; warning all good citizens against any participation therein; and calling upon all in authority to exert themselves in suppressing the enterprise, and arresting all concerned in it

The agent Graham—from conversations with Blennerhasset, whom he met at Marietta, and who seemed to take him for one of the confederates, relying, apparently, on the statements of Burr to that effect, and expressing great surprise when the fact was denied—had thought it necessary, already, before the issue of the president's proclamation, to apply to the Governor of Ohio for the seizure of the boats building on the Muskingum, and by that time about finished. The Legislature of Ohio was then sitting, and an act was at once passed, with closed doors, authorizing the seizure, which was immediately made.

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Two or three days after the president's proclamation reached Marietta, some four or five boats from the neighborhood of Beaver, in Pennsylvania, intended for Burr's expedition, led by Colonel Tyler, and with a number of men on board, reached Blennerhasset's island, and posted sentinels to prevent any communication with the river banks. Blennerhasset, having received information that his own boats on the Muskingum had been seized, and that a body of militia were coming to seize those at the island, hastily embarked with a few followers, and descended the river in Tyler's flotilla. The next day a mob of militia took possession of the island, committing great waste and destruction, and not even abstaining from insolence and insults toward Blennerhasset's accomplished wife, who presently succeeded, however, in obtaining a boat and following her husband down the river.

Dec. 10.

Dec. 13.

From Chillicothe, the seat of government of Ohio, the agent Graham had hastened to Frankfort. The Kentucky Legislature was then in session, and an investigation, which had been ordered into Sebastian's conduct, had resulted in full proof that he had been for years a Spanish pensioner. Indeed, he had anticipated the report of the

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committee by a resignation. It was shown that Innis, the district judge, George Nicholas, deceased, and others, had been concerned in these Spanish intrigues, but no evidence appeared that any but Sebastian had been paid agents of the Spanish government. Upon the top of these startling disclosures, Graham easily prevailed upon the Kentucky Legislature to pass an act similar to that of Ohio, and under it some seizures were made. Bodies of militia were also posted to intercept such boats as might be descending the river. Smith, the Ohio senator, made himself very busy in this business; but already Tyler's boats had succeeded in passing the Falls of the Ohio, where they had been joined by two or three others under David Floyd.

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Burr himself descended from Nashville with two boats —Adair having proceeded by land to New Orleans— and at the mouth of the Cumberland encountered those which had made good their escape down the Ohio. The whole flotilla did not exceed ten boats, with about a hundred men. They landed on an island at the mouth of the Cumberland, and waited for some days, apparently in the hope that others might yet join them. The men were drawn up in a sort of square, and Burr was introduced to them. He had intended, he said, to make here an exposition of his designs, but, from circumstances which had occurred, he should defer it to another opportunity.

Nearly opposite the mouth of the Cumberland, on the north bank of the Ohio, stood Fort Massac, with a garrison of some forty men, but without cannon. The rumors of Burr's projects, so rife throughout the Western country, do not appear to have reached this secluded spot. Burr opened a communication with the officer in command, and, under pretense that he wanted to send a confidential express from New Madrid to St. Louis, ob

tained, under a furlough for twenty days, an orderly sergeant from the garrison ; which, however, he took care to pass in the night. This orderly sergeant was persuaded to join in the enterprise ; and, according to his own testimony, Burr urged him to endeavor to influence some of the soldiers to desert for the same purpose.

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The only other military post between the mouth of the Cumberland and Natchez was at Chickasaw Bluff, ~~now~~ Memphis. The boats stopped there ; and Burr made great efforts, and not altogether without success, to seduce the commanding officer into his service. He would not, however, join him till he had first visited his friends ; nor, though efforts were made for it, did Burr succeed in obtaining any of the soldiers of the garrison. Having reached the first settlement on the left bank of the Mississippi, Burr, who had gone on ahead of the other boats, landed at the house of a planter, one of the judges of the Mississippi Territory. On inquiring for newspapers, there was handed to him, as it happened, the very New Orleans journal containing a statement respecting the condition of affairs made by Wilkinson to the Legislature of the Orleans Territory, called together in special session, and annexed to which was a deciphered copy of Burr's letter to Wilkinson, received through Swartwout and Bollman. Perceiving what he had to expect at New Orleans, and fearful that he might be arrested at once, Burr directed his boats to withdraw to the west bank of the river, and there, some thirty miles above Natchez, but out of the jurisdiction of the Mississippi Territory, an encampment was established, sentinels were posted, and a piece of ground was cleared on which to exercise the men.

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Jan. 3

Jan. 10

The president's proclamation had already reached the Mississippi Territory, with special instructions also ; and,

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Jan. 16.

Meanwhile Burr proceeded to Washington, the seat of government of the Mississippi Territory, about ten miles east of Natchez. Poindexter gave it as his official opinion that there was no evidence to convict Burr of any offense in the Mississippi Territory, and, moreover, that the Supreme Territorial Court, being a court of appeals only, could not entertain original jurisdiction of the matter, and that it would be best to send Burr to the seat of the national government, where the Supreme Court of the United States was in session, by which the proper locality for the trial of Burr might be determined. But Rodney, the judge before whom Burr was

brought, thought differently, and he directed a grand jury to be summoned to attend the approaching term of the Supreme Territorial Court, and Burr to give recognizances to appear from day to day. He was not without sympathizers among the neighboring planters, and found no difficulty in obtaining sureties. When the court met, Poindexter took the same ground as before; but as the two judges were divided in opinion, his motion was overruled. The grand jury retired, and no evidence having been offered against Burr, instead of indicting him, they presently brought in presentments against the acting governor for calling out the militia; against the manner in which Burr had been compelled to surrender; and against the late proceedings at New Orleans.

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Burr withdrew to the house of one of his sureties; but, alarmed by the report that some military officers had been sent from New Orleans by Wilkinson to arrest him, he disappeared that same evening. He spoke with much bitterness of Wilkinson as a traitor, and expressed a great repugnance to fall into his hands. He returned to his boats, and told the men that he had been tried and acquitted, but that they were going to arrest him again, and that he must fly. What property, provisions, and other things there were in the boats, they might sell and make the most of, and might go and settle on the Washita lands if they chose. Nothing more was heard of Burr for some time, except a message, believed to be in his handwriting, directed to T. or F. (Tyler or Floyd), found under the cape of a coat belonging to Burr, but worn by a negro boy, in which he desired his men, if they had not separated, to keep together, to get their arms ready, and he would join them the next night—a message which led to several arrests.

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1807. Burr's men, several of whom were afterwards used against him as witnesses, dispersed through the Territory, furnishing it, as Poindexter afterward testified, with an abundant supply of schoolmasters, singing-masters, dancing-masters, and doctors. A reward having been offered for his capture, Burr was arrested some time

Feb. 19. after in the Eastern Mississippi settlements, on the Tombigbee, through which he was passing on horseback, meanly dressed, attended by a single companion, and whence he was sent, under a guard, to Washington. The arrest was made by the register of the land-office, assisted by Lieutenant Gaines (afterward Major-general Gaines) with a sergeant and four men from Fort Stoddart.

Just about the time of Burr's arrival near Natchez, General Adair reached New Orleans by land, but was immediately taken into custody by Wilkinson, and sent round by sea to Baltimore. The alarm did not immediately cease upon the stoppage of Burr's boats. As it was imagined that he had promises of foreign assistance, confederates in various quarters, and numerous partisans in the city itself, it was thought that even yet an attack might be made. There had existed in New Orleans a society called the Mexican Association, formed for the purpose of obtaining information respecting the internal provinces of that viceroyalty, with a view, it was admitted, to some future expedition against them. This society, it was said, had some time before dwindled to nothing, and had discontinued its meetings; yet all those who had once been connected with it were suspected as Burr's partisans. Not willing to risk further arrests, from which the prisoners might be discharged on writs of habeas corpus, Governor Claiborne applied to the Territorial Legislature to suspend that writ; but though, in other respects, the majority had supported his and Wilkin-

son's measures, they refused to grant this request. A considerable party, both in the Assembly and among the citizens, was very bitter against what they called the high-handed and tyrannical proceedings of Wilkinson and Claiborne. Wortman resigned his office of judge on the ground that the government was usurped by military authority, and Livingston presently came out with a long vindication against the insinuation which had been thrown out by Wilkinson to his disadvantage.

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In the midst of the excitement occasioned by the issue of the president's proclamation, the ninth Congress came together for its second session. In the opening message some allusions were made to that proclamation; but it was six weeks before the proceedings against Burr came distinctly before the House. To a call for information, moved by Randolph, and carried against a good deal of opposition from the president's more particular supporters, the president replied by a statement of the steps taken by his orders. Though it was not yet known what had become of Burr, all occasion for alarm had ceased; so the president declared, and yet, as if in spite of this declaration, a bill was at once introduced into the Senate, and, by a suspension of all the rules by unanimous consent, was passed in secret session without a division, suspending the privilege of the writ of habeas corpus for three months. This singular movement is best explained by the legal proceedings then pending in the case of Bollman and Swartwout, sent prisoners by sea from New Orleans, and who, having been brought across the country from Annapolis, had arrived at Washington that same evening, and had been committed to the custody of the marine corps. Being brought before the Circuit Court, the principal court of law of the district, on a charge of treason, the president's message of the

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previous week was relied upon by the counsel for the government as conclusive proof of the existence of a traitorous plot—a course of reasoning to which two of the three judges assented. A deposition of Wilkinson, though being objected to as being *ex parte*, was also introduced, as well as the testimony of Eaton; and the court, on this evidence, two to one, committed the prisoners for trial.

But if the suspension of the habeas corpus was intended for this case, that intention failed of its effect, for the House rejected the bill from the Senate by the decisive vote of 113 to 16; and a day or two after, all alarm was quieted by the information communicated to Congress by the president that Burr had passed Fort Massac with only ten boats, not strongly manned, and without appearance of military array.

Bollman and Swartwout were soon after brought before the Supreme Court of the United States on a writ of habeas corpus, and, after a very elaborate argument (Harper and Martin appearing as their counsel), first, as to the right of the court to issue the writ, and then as to the sufficiency of the cause of commitment, they were discharged from custody on the ground that they did not appear to have been in any way connected with the commission of any overt act of treason. Alexander, who had also been brought to Washington in custody, was discharged without any opposition on the part of the government. Ogden and Adair were discharged at Baltimore, immediately after which Adair addressed a long letter to the Kentucky delegation in Congress, in which he insisted that he had gone to New Orleans only on a land speculation and commercial business. He afterwards commenced in Mississippi a suit against Wilkinson for false imprisonment. This suit was not

brought to a close till 1818, when Adair recovered judgment for \$2,500, against which Wilkinson was indemnified by Congress. By a common revulsion of feeling, the exaggerated rumors as to Burr's force, and the alarm thereby excited in New Orleans and elsewhere, speedily became subjects of ridicule. Henry Clay, lately Burr's counsel in Kentucky, having taken his seat in the senate, denounced the arrests made by Wilkinson at New Orleans as illegal and unconstitutional. Smith, of Maryland, of which state Wilkinson was a native, admitted that Wilkinson's proceedings were not technically legal, but he justified them as precautions which the general's position and information had made it necessary for him to take.

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In the House, toward the end of the session, the same subject was very warmly discussed, on a series of resolutions directing a bill to be brought in more effectually to secure the privilege of the writ of habeas corpus to persons in custody under the authority of the United States. Both sections of the opposition, the Federalists, and the little party led by Randolph, severely denounced the conduct of Wilkinson; and the resolutions were with difficulty got rid of by a majority of only two votes. The president had recommended in his opening message the giving to the executive, in case of enterprises meditated against the government, the same suppressive powers already possessed in case of enterprises against foreign powers. But the Democrats had not yet entirely forgotten how violently, when in opposition, they had resisted the latter act. A bill, in conformity to the president's recommendations, was brought into the House; but as it could not be so shaped as to suit the majority, it failed to pass. Another bill on the same subject came down from the Senate, but the whole was struck out in

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the House except a single section, still in force, authorizing the president, in all cases in which he has the right to call out the militia to suppress insurrection and resistance to the laws, to employ for the same purpose the naval and military forces of the United States.

Another subject pressed upon the attention of Congress in the president's message, and which occupied a large share of attention from the beginning to the end of the session, was the prohibition of the importation of slaves from and after the 1st of January, 1808. All concurred in expressing the greatest anxiety that this traffic should be prohibited from the first moment that it fell under the cognizance of Congress; but as to the details of the measure, very great differences of opinion arose; principally as to the punishments to be imposed upon those who might persist in carrying on the traffic, and as to the disposal of negroes illegally introduced.

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As originally reported by a committee, of which Early, of Georgia, was chairman, the bill provided that all negroes, mulattoes, and persons of color illegally introduced "should be forfeited and sold for life for the benefit of the United States." Sloan moved to substitute "shall be entitled to his or her freedom," an amendment very violently opposed by the Southern members. Early maintained with great earnestness that the persons so illegally introduced must not only be forfeited, but must be sold as slaves and continued as such. "What else can be done with them? We of the South consider slavery a dreadful evil, but the existence of large numbers of free blacks among us as a greater evil: and yet you would by this amendment turn loose all who may be imported! You can not execute such a law, for no man will inform who loves himself or his neighbor."

This same view, the impossibility of enforcing the law

if negroes illegally imported were to become free, was urged by Macon, the speaker. Other arguments were added by his colleague, Willis Alston. "Should a state by law forbid the freeing of any slaves, Congress could not contravene such a law." "Slaves being property by the laws of a state, Congress could not, in opposition to those laws, consider them otherwise."

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On the other hand, Smilie called attention to the inconsistency of laying severe penalties, as this bill did, upon all concerned in buying or selling imported slaves, while, at the same time, the United States set themselves up as sellers! Barker, of Massachusetts, argued that the United States ought not only to declare all illegally imported Africans free, but to convey them safely back to their native country. That, Macon thought, would be impracticable. Quincy opposed the amendment, because it was not right to say that a certain class of people should be free, who could not be so according to the laws of the state where they might be, and whose freedom might produce a fatal, injurious, or disagreeable effect. Only nineteen members voted in favor of Sloan's amendment; but the next day, Pitkin, of Connecticut, urged some very strong objections against forfeiting imported Africans, and selling them at public auction like bales of goods. He admitted the inconvenience that might arise in some of the states from setting them free; but that might be obviated by binding them out for terms of years, and appointing some proper officer to look after them. As the bill now stood, it authorized the selling of forfeited slaves even in Massachusetts, where slavery was totally prohibited. He moved to recommit the bill, and after an animated debate, that motion prevailed.

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When the bill came back from the select committee to

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Dec. 29. When the disposal of the forfeited negroes was again resumed, Findley advocated binding them out for terms of years. Bidwell strongly opposed the forfeiture, as implicating the United States in the same crime with the traders. He hoped the statute-book would never be disgraced by such a law. This verbal implication of the United States being, however, avoided, he was quite willing to leave the imported Africans to the laws of the states, whatever they might be. Quincy, in reply, insisted on the forfeiture, not only because the Southern gentlemen regarded it as the only means of enforcing the law, but because it was also the only means by which the United States could obtain a control over these unfortunate creatures, so as to be certain that the best was done for them that circumstances would admit. It did not follow that they must be sold because they were forfeited. "May you not do with them what is best for human beings in that condition—naked, helpless, ignorant of our laws, character, and manners? You are afraid to trust the national government, and yet, by refusing to forfeit, you will throw them under the control of the states, all of which may, and some of which will and must retain them in slavery. The great objection to forfeiture is that it admits a title. But this does not follow. All the effect of forfeiture is, that whatever title can be acquired in the cargo shall be vested in the United States. If the cargo be such that, from the nature of

the thing, no title can be acquired in it, then nothing vests in the United States. The only operation of the forfeiture is to vest the importer's color of title by the appropriate commercial term, perhaps the only term we can effectually use, to this purpose, without interfering with the rights of the states. Grant that these persons have all the rights of man: will not those rights be as valid against the United States as against the importer? And, by taking all color of title out of the importer, do we not place the United States in the best possible situation to give efficiency to the rights of man in the case of the persons imported?

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"But let us admit that forfeiture does imply a species of title lost on one side and acquired on the other, such as we can not prevent being recognized in those states into which these importations will most frequently take place; which is best? which is most humane? to admit a title, gain it for the United States, and then to make these miserable creatures free, under such circumstances and at such time as the condition into which they are forced permits, or, by denying the possibility of title, to leave them to be slaves? But my colleague has a sovereign specific for this. We do not make them slaves, he says, we only leave them to the laws of the states. But if the laws of all the states may, and if some of them do and will make them slaves, by leaving them to the operation of the laws of those states, do we not as absolutely make them slaves as though we voted them to be so in express terms? To my mind, if, when we have the power, we fail to secure to ourselves the means of giving freedom to them under proper modifications, we have an agency in making them slaves. To strike out the forfeiture, as it seems to me, will defeat the very end its advocates have in view."

February

Fiske, of Vermont, denied that, in order to give the

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United States the desired control over Africans or others illegally imported, any forfeiture was necessary. It was never thought that shipwrecked people belonged to the finder. Just so with alleged slaves brought here. It was our duty to take them into our custody, and, if they needed assistance, to provide for them; and this might be done without seeming to recognize any title in the importer. He was inclined to the apprenticeship plan.

Clay, of Philadelphia, and Macon strongly urged the bill as it stood, on the ground that it was only as a commercial question that Congress had any jurisdiction over the slave trade. Smilie insisted that this was something more than a mere commercial question, and that the bill could not be passed with this clause of forfeiture in it without damage to the national character. He quoted the Declaration of Independence; to which Clay replied that the Declaration of Independence must be taken with great qualifications. It declared that men have an inalienable right to life—yet we hang criminals; to liberty—yet we imprison; to the pursuit of happiness—and yet men must not infringe on the rights of others. If that declaration were to be taken in its fullest extent, it would warrant robbery and murder, for some might think even these crimes necessary to their happiness. This cavalier treatment of the rights of man, while Jefferson was still president, was not a little remarkable in one chosen to represent the ultra radical Democracy of the city of Philadelphia. Hastings, of Massachusetts, hoped the general government would never be disgraced by undertaking to sell human beings like goods, wares, and merchandise.

Dec. 31. Yet, in spite of all these objections, the House refused to strike out the forfeiture sixty-three to thirty-six.

The debate then turned upon the punishment to be inflicted on the masters and owners of vessels engaged in the slave trade. The substitution, which had been

adopted in Committee of the Whole, of imprisonment for death, was warmly opposed by the greater part of the Northern members, a few excepted, who professed scruples at inflicting capital punishments at all. "We have been repeatedly told," said Mosely, of Connecticut, "and told with an air of some triumph, by gentlemen from the South, that their citizens have no concern in this infamous traffic; that people from the North are the importers of negroes, and thereby the seducers of Southern citizens to buy them. We have a right to presume, then, that the citizens of the South will entertain no particular partiality for these wicked traffickers, but will be ready to subject them to the most exemplary punishment. So far as the people of Connecticut are concerned, I am sure that, should any citizen of the North be convicted under this law, so far from thinking it cruel in their Southern brethren to hang them, such a punishment of such culprits would be acknowledged with gratitude as a favor."

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The Southern members all opposed the punishment of death as too severe to be carried into execution. "A large majority of the people in the Southern States," said Early, "do not consider slaveholding as a crime. They do not believe it immoral to hold men in bondage. Many deprecate slavery as an evil—a political evil—but not as a crime. Reflecting men apprehend incalculable evils from it at some future day, but very few consider it a crime. It is best to be candid on this subject. If they considered the holding men in slavery as a crime, they would necessarily accuse themselves. I will tell the truth; a large majority of people in the Southern States do not consider slavery even an evil. Let gentlemen go and travel in that quarter of the Union, and they will find this to be the fact."

Holland, of North Carolina, gave a similar account of the public sentiment of the South; "Slavery is gener-

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ed to murder. In spite, however, of all efforts, the substitution of imprisonment for death prevailed by a vote of sixty-three to fifty-two.

Another attempt was afterwards made by Sloan, of New Jersey, to strike out the forfeiture clause; but he could not even succeed in obtaining the yeas and nays upon it. Three days after, the bill having been engrossed and the question being on its passage, the Northern members seemed suddenly to recollect themselves. Again it was urged that by forfeiting the slaves imported, and putting the proceeds into the public treasury, the bill gave a direct sanction to the principle of slavery, and cast a stain upon the national character. In order that some other plan might be devised, consistent at once with the honor of the Union and the safety of the slaveholding states, it was moved to recommit the bill to a committee of seventeen—one from each state. This motion, made by Bedinger, of Kentucky, was supported not only by Sloan, Bidwell, Findley, and Smilie, but also by Quincy, of Boston, and Clay, of Philadelphia, who seemed at length to have taken the alarm at the extent to which they had been playing into the hands of the slaveholders. It was urged, on the other side, that the bill, as it stood, was satisfactory to nearly or quite all the members from the Southern States, who alone were interested in the matter, and that to recommit a bill at this stage was very unusual. The motion to recommit was carried, however, seventy-six to forty-nine. With the yeas voted all the Northern members present, except three Federalists from New Hampshire, and as many more from New York. But their desertion was more than made good by three votes from Maryland, two from Virginia, two from Kentucky, and one from each of the states of Delaware, North Carolina, and Tennessee.

The committee of seventeen proposed that all persons CHAPTER
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apprentices for a limited time, at the expiration of which they were to become free.

When this report came up for discussion, a very ex- Feb. 9
traordinary degree of excitement was exhibited by several of the Southern members. Early declared that the people of the South would resist this provision with their lives; and he moved, by way of compromise, as he said, to substitute for it a delivery of the imported negroes to the state authorities, to be disposed of as they might see fit—the same, in substance, with Bidwell's suggestion. This Smilie pronounced a new scene indeed! Was the House to be frightened by threats of civil war? Early denied having made any such threats. He merely meant to intimate that troops would be necessary to enforce the act. The whole day, thus commenced, was consumed in a very violent debate, of which no detailed report has been preserved.

While this subject had been under discussion in the House, the Senate had passed and sent down a bill having the same object in view. The House bill, with the report of the committee, having been laid upon the table, the Senate bill was taken up. That bill provided that Feb 10
neither the importer, nor any purchaser under him, should "have or gain" any title to the persons illegally imported, leaving them to be disposed of as the states might direct. Williams, of South Carolina, moved to substitute the word "retain" instead of the words "have or gain." The motion to strike out prevailed, but, instead of "retain," the word "hold" was substituted; whereupon Williams declared, in a very vehement speech, that he considered this word "hold" as leading to the destruc-

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tion and massacre of all the whites in the Southern States; and he attacked Bidwell with great violence as the author of this calamity. The punishment of death was also stricken from the bill, and, thus amended, it was reported to the House. These amendments being concurred in, the bill was passed, one hundred and thirteen to five, and was sent back to the Senate.

But, notwithstanding this concession to the South, the trouble was not yet over. Among other precautions against the transportation coastwise of imported slaves, the Senate bill had forbidden the transport, for the purpose of sale, of any negro whatever on board any vessel under forty tons burden. A proviso had been added by the House, excluding from the operation of this section the coastwise transportation of slaves accompanied by the owner or his agent. The refusal of the Senate to concur in this amendment called out John Randolph, who hitherto had hardly spoken. "If the bill passed without this proviso, the Southern people," he said, "would set the act at defiance. He would set the first example. He would go with his own slaves, and be at the expense of asserting the rights of the slaveholders. The next step would be to prohibit the slaveholder himself going from one state to another. The bill without the amendment was worse than the exaction of ship-money. The proprietor of sacred and chartered rights was prevented from the constitutional use of his property."

Other speeches were made in the same high strain, and finally a committee of conference was appointed, by which an amended proviso was agreed to, allowing the transportation of negroes, not imported contrary to the provisions of the act, in vessels of any sort on any river or inland bay within the jurisdiction of the United States. This, however, was far from satisfying the more violent

Southern members. Randolph still insisted "that the provisions of the bill, so far as related to the coastwise transportation of slaves, touched upon the right of private property," and he expressed a fear lest at any future period this claim of power might be made the pretext for a general emancipation. He would rather lose all the bills of the session, every bill passed since the establishment of the government than submit to such a provision. It went to blow the Constitution into ruins. If disunion should ever take place, the line of disseverance would not be between the East and the West, lately the topic of so much alarm, but between the slaveholding and the non-slaveholding states. Early and Williams joined in these demonstrations; but the report of the committee of conference was agreed to, sixty-three to forty-nine.

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The act, as finally passed, imposed a fine of \$20,000 upon all persons concerned in fitting out any vessel for the slave trade, with the forfeiture of the vessel; likewise a fine of \$5000, with forfeiture also of the vessel, for taking on board any negro, mulatto, or person of color in any foreign country, with the purpose of selling such person within the jurisdiction of the United States as a slave. For actually transporting from any foreign country and selling as a slave, or to be held to service or labor within the United States, any such person as above described, the penalty was imprisonment for not less than five nor more than ten years, with a fine not exceeding \$10,000 nor less than \$1000. The purchaser, if cognizant of the facts, was also liable to a fine of \$800 for every person so purchased. Neither the importer nor the purchaser were to hold any right or title to such person, or to his or her service or labor; but all such persons were to remain subject to any regulations for their disposal, not contrary to the provisions of this act, which

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might be made by the respective states and territories. Coasting vessels transporting slaves from one state to another were to have the name, age, sex, and description of such slaves, with the names of the owners, inserted in their manifests, and certified also by the officers of the port of departure; which manifests, before landing any of the slaves, were to be exhibited and sworn to before the officer of the port of arrival, under pain of forfeiture of the vessel, and a fine of \$1000 for each slave as to whom these formalities might be omitted. No vessel of less than forty tons burden was to take any slaves on board except for transportation on the inland bays and rivers of the United States; and any vessel found hovering on the coast with slaves on board, in contravention of this act, was liable to seizure and condemnation; for which purpose the president was authorized to employ the ships of the navy, half the proceeds of the captured vessels and their cargoes to go to the captors. The masters of vessels so seized were liable to a fine of \$10,000, and imprisonment for not less than two nor more than four years. The negroes found on board were to be delivered to such persons as the states might respectively appoint to receive them, or, in default of such appointment, to the overseers of the poor of the place to which they might be brought; and if, under state regulations, they should be "sold or disposed of," the penalties of this act upon the seller and purchaser were not to attach in such cases. Though coming very near it, the provisions of this warmly-contested enactment did yet, vastly to the chagrin of the ultra slaveholders, avoid, as the Constitution of the United States had done, any acknowledgment of the existence, by natural law, of property in man, or any national participation in the sale of human beings.

Randolph's objections to the act, of which the restraint

upon the transportation of slaves by water was made the pretense, did not cease with the passage of the bill. He denounced it the day after in a most vehement speech, in which he declared that whatever might be thought of alien, and sedition, and excise laws, they were nothing in comparison to this. It laid the axe at the root of all property in the Southern States. If Congress could abridge, alter, or modify the right of property in slaves, they could go a step further and emancipate them. He asked, therefore, for leave to bring in an explanatory bill. If the motion was rejected, he doubted if the House would ever again see any Southern delegates on its floor. He, for one, would say, let us secede and go home.

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This display of insolent bravado, so often since repeated, did not meet with so much success as it has done on some subsequent occasions. Smilie declared that he was not to be frightened by any such scarecrow. He might lament a secession, but he did not fear it. The Northern people could take care of themselves; it was the South that would suffer. Leave, however, was granted, and Randolph brought in his explanatory bill, disavowing in its preamble any right in Congress to abridge, modify, or affect the right of property in slaves not illegally imported into the United States, and declaring the prohibition as to the transportation of slaves in vessels under forty tons burden not to apply to any masters or owners, or to their agents, transporting slaves from one port to another of the United States. Randolph insisted upon instant action, without the customary reference to a committee of the whole, as otherwise the bill would fail to pass at the present session; in which case he hoped that the Virginia delegation would wait upon the president to remonstrate against his signature of the bill already passed. In spite, however, of the fury of Randolph,

CHAPTER XIX. the bill was referred in the usual way. Of course, it was
----- not reached. It slept forever ; yet the Union remained
1807. undissolved.

The importation of Africans into South Carolina during the four years from the reopening of the traffic up to the period when the law of the United States went into effect, amounted to about 40,000, of whom half were brought by English vessels. A very large proportion of the remainder seem to have been introduced by Rhode Islanders. The English act for the abolition of the slave trade, and especially the commercial restrictions which went into operation simultaneously with the American act, contributed to give it an efficacy which otherwise it might not have had. At a subsequent period, after the re-establishment of freedom of navigation, additional provisions, as we shall see, became necessary.

The convention of delegates from the various abolition societies had continued, since its institution in 1793, to meet annually at Philadelphia ; but of late the delegations from the South had greatly fallen off, and the convention of the present year resolved that its future meetings should be only triennial. That spirit, twin-born with the struggle for liberty and independence, which had produced in three states (Massachusetts, Vermont, and Ohio) the total prohibition of slavery, in six others provisions for its gradual abolition, and, in spite of the efforts of the people of Indiana for its temporary introduction (efforts renewed again at the present session, but again, notwithstanding the favorable report of a committee, without success), its continued prohibition in the territories northwest of the Ohio, culminating now in the total prohibition of the foreign slave trade, seems to have become, for a considerable interval, less active, or, at least, less marked in its manifestations. The greater part of the societies whence the delegates came gradual-

ly died out, and even the triennial convention presently ceased. Jefferson, having much more about him of the politician than of the martyr, preserved, with all his zeal on this subject, a dead silence. In his private letters he sometimes alluded to the necessity of steps for getting rid of the evil of slavery; but he took good care not to hazard his popularity at the South by any public suggestions on the subject.

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That dread of and antipathy to free negroes which had been evinced in the debate on the slave trade prohibition act had not been without its influence upon the legislation of the states. Indeed, it had led to some serious infractions of these alleged rights of property, but a very distant approach to which by the general government had thrown Randolph into such excitement. In 1796 North Carolina had re-enforced and re-enacted her law prohibiting emancipation except for meritorious services and by allowance of the county courts. South Carolina, in 1800, had prohibited emancipation except by consent of a justice of the peace and of five indifferent freeholders. Another South Carolina act of the same year had declared it unlawful for any number of slaves, free negroes, mulattoes, or mestizoes to assemble together, even though in the presence of white persons, "for mental instruction or religious worship." The same influences were felt in Virginia, aggravated, perhaps, by two successive alarms of insurrection, one in 1799, the other in 1801. The freedom of emancipation allowed by the act of 1782 was substantially taken away in 1805, by a provision that thenceforward emancipated slaves remaining in the state for twelve months after obtaining their freedom should be apprehended and sold for the benefit of the poor of the county—a forfeiture given afterward to the literary fund. Overseers of the poor, binding out black or mulatto orphans as apprentices,

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were forbidden to require their masters to teach them reading, writing, or arithmetic. Free blacks coming into the state were to be sent back to the places whence they came. The Legislature of Kentucky presently (1808) went so far as to provide that free negroes coming into that state should give security to depart within twenty days, and on failure to do so should be sold for a year—the same process to be repeated if, twenty days after the end of the year, they were still found within the state. “Such is the fate,” exclaims Marshall, the historian of Kentucky, indignant at this barbarous piece of legislation, “of men not represented, at the hands of law-makers, often regardless of the rights of others, and even of the first principles of humanity.” Yet this statute remains in force to the present day, and many like ones, in other states, have since been added to it. Whether the excessive dread of the increase of free negroes, which still prevails, and which seems every day to grow more and more rabid throughout the Southern States, has any better foundation than mere suspicion and fear, is not so certain. In Delaware and Maryland the free colored population is far greater in proportion than elsewhere; yet life and property are more secure in those than in many other slaveholding states, nor are they inferior in wealth and industry.

Next to the prohibition of the slave trade, the act of the session of the greatest permanent importance was that for a survey of the coasts of the United States—a great enterprise, continued from that time to this, and not yet entirely completed. This very important measure was introduced on the suggestion of Dana, who might be considered, since Griswold's retirement, as the leader of the Federalists. The first appropriation was \$50,000; but the bill would hardly have passed had the adminis-

tration or its supporters entertained the least idea of the expense which the survey would ultimately involve.

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Dana also called attention to the recent prosecutions for libels commenced under Pierrepont Edwards's auspices in the Federal Circuit Court of Connecticut. He wished that some provision might be made securing to the defendants the right to give the truth in evidence. Nothing, however, came of this motion; nor, taking it for granted, as the Republican party had always maintained, that the Federal Courts had no common law criminal jurisdiction, did there seem any occasion for Congress to interfere.

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The death of Patterson having caused a vacancy on the bench of the Supreme Court, Brockholst Livingston had been appointed to fill it—an appointment not a little mortifying to the Clintonians, who, in denouncing the Livingston or Lewisite party as little better than Federalists, had professed a very special zeal on behalf of the administration. An act of this session added a seventh judge to the Supreme bench of the United States, and created a seventh circuit, composed of the states of Kentucky, Tennessee, and Ohio. This appointment was given to Thomas Todd, of Kentucky, one of the secretaries of the Democratic Society at Lexington at the time Breckenridge had been president. The place of attorney general, vacant by the death of Breckenridge, was given to Cæsar A. Rodney, who had acted for the government in the case of Bollman and Swartwout.

It was not, however, by domestic affairs, interesting and exciting as they were at this moment, that the public attention was entirely engrossed. On the representation of the president that the pending negotiation with Great Britain seemed likely to result in a treaty, an act had passed very soon after Congress came together (Dec. 19), suspending till the following July the operation of

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the act of the last session prohibiting the import of certain descriptions of British merchandise. All penalties hitherto incurred were remitted, and the president was authorized to continue the suspension, should he think proper, till the meeting of the next Congress.

Of the progress of the negotiation with Spain the president was not able to furnish any satisfactory account. Though the project of buying the Floridas had not succeeded, the administration had gone so far as to consent, on the urgent recommendation of Bonaparte, again to receive as ambassador from Spain that same Yrujo by whom they had been so publicly insulted a few months before. Turreau, the French ambassador, treated the American government much in the same way, urging with a rude pertinacity the payment of the claim of the heirs of Beaumarchais for the million of livres which, on the settlement of his accounts, had been deducted as having been put into his hands by Vergennes for the use of the United States and as a gift to them. The French government, which had taken up the patronage, and probably had obtained an assignment of this claim, strenuously insisted that the million of livres given to Beaumarchais had been employed by him in certain secret services, quite distinct from furnishing of military supplies, for which his claim—so Turreau insisted, and Rodney seemed to concur in it—was good to the extent of the supplies furnished. This, however, was but a trifle compared with certain new steps taken by France, information of which arrived during the session

February.

The battle of Trafalgar, by striking a death-blow at the French and Spanish navies, had given the dominion of the ocean and the control of the trade of the world to Great Britain; and it was evident, from the recent decision of the English Courts of Admiralty, restricting the rights of neutrals, that she meant to exercise that power

to her own advantage, and to derive from the supply of the Continent with produce from abroad new pecuniary means wherewith to prosecute the war. So long as the French Revolutionary government, and Bonaparte as its successor, had been able to contend with Great Britain for maritime ascendancy, they had put themselves forward as the champions and vindicators of the rights of neutrals and of the freedom of trade. But seeing now no other way to counteract Great Britain except by putting an end to the foreign trade of Europe, Bonaparte entered with all his natural promptitude, and with the blind zeal of a military despot, upon that scheme of policy, to which he gave the name of the Continental system. Having subdued Austria for the third time, and completely humbled her; having dissolved the German Empire, and overturned the kingdom of Prussia at a single blow; confident in his apparent omnipotence, he issued from the field of Jena (Nov. 21, 1806) the famous Berlin decree, the first step in his new anti-commercial career.

Previous to the recent breach between France and Prussia, under a treaty between those two powers, Hanover had been occupied by a Prussian army; shortly after which a British order in council had been issued, dated May 16, 1806, embracing within its provision the whole extensive line of coast from Brest to the Elbe. This was called an order of blockade, but except as to the ports from the Seine to Ostend, before which cruisers were stationed, it went no further than to restrain neutrals from trading from port to port along that coast; and even that restriction had been repealed as to the German coast by a subsequent order in council of the 27th of September, previous to the issue of the Berlin Decree.

On the alleged ground of the tyranny established by England over the seas, and especially of the abuse of declaring ports and coasts blockaded before which no ade-

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quate force was stationed—of which the order of May 16th was relied upon as a flagrant instance—the Berlin decree retaliated by declaring the British Islands in a state of blockade, and prohibiting all commerce and intercourse with them. No letters in the English language were to pass through the French post-offices. All trade in English merchandise was forbidden. All merchandise belonging to Englishmen, or from England, was declared lawful prize. No vessels directly from England or the English colonies, or which might have been there subsequent to the date of this decree, were to be admitted into any French port.

In its terms, this decree applied as much to neutrals as to Frenchmen, and threatened with seizure all American vessels, wherever bound, having British merchandise on board, or trading to or from the British Islands. Nor, in this respect, was the decree original, for the same provisions had been contained in one of the decrees of the Directory issued during the year 1793. The Berlin decree, by one of its articles, was to be communicated to the kings of Spain, Naples, Holland, and Etruria (Tuscany), and to the allies of France generally; and as the states named were but the humble vassals of Bonaparte, there was every reason to expect them speedily to adopt the same policy.

When the news of this decree reached the United States, it produced the greatest alarm among the merchants. The rates of insurance rose to a ruinous height, and almost a complete stop was put to commercial enterprises. But this alarm was soon appeased by the publication in the *National Intelligencer* of a private letter of Armstrong, the American minister at Paris, stating, in positive terms, that he had received written assurances from the French minister of Marine that the decree would in no respect, so far as the United States were

concerned, disturb the existing regulations of commerce as settled by the convention of 1800. But Armstrong's official correspondence, which was presently laid before Congress by the president, by no means bore out this agreeable assurance. The French minister of Marine, had indeed expressed his opinion that American vessels bound to or from British ports would not be liable to capture for that reason only. But as to the point of having British produce on board, embraced also in Armstrong's inquiries, the reply was much less definite; for, though he expressed a general opinion that the decree was not intended to contravene the American treaty, he at the same time referred Armstrong, as to the whole matter, to the minister of Foreign Affairs as the proper person to be consulted. The merchants, however, were disposed to give to these assurances the broadest latitude of interpretation; and they received with great satisfaction the additional information communicated in the same message, that Monroe and Pinkney had agreed in England on the terms of a treaty, arranging the late disputed points of neutral rights, and which only waited to be reduced to form.

The few Federalists in Congress,—as well after these communications as before,—and several of the Democratic representatives from commercial parts of the Union concurred with them—were decidedly of opinion that, considering the very delicate and uncertain state of the foreign relations of the country, some preparations for defense at least were necessary; but to every proposal of this sort the special supporters of the administration were decidedly opposed. A bill from the Senate to increase the regular army was lost in the House. A proposition to put all the ships of the navy into commission, or, at least, so many of them as the president might deem expedient, failed in the same way. The House would

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go no further than to vote an increase of five hundred seamen, without which it would be impossible to relieve the frigate stationed in the Mediterranean. The president reiterated his decided opinion as to the impolicy of making preparations for war in time of peace—a policy, he said, which had ruined half the nations of Europe. All that he deemed necessary was an increase of gun-boats; and he asked an appropriation of \$300,000 to build sixty more of these boats in addition to the sixty-nine already completed. A bill was accordingly brought in, appropriating for that purpose \$250,000; also \$20,000 for fortifications, all that the Secretary of War asked for.

The Federalists attacked this bill with much spirit. The absurdity of the proposed appropriation for fortifications was sufficiently obvious, since it would require two or three millions to fortify New York alone, liable, at present, to be insulted and plundered by any one or two ships of war, and, indeed, even by privateers. As for the gun-boats, they were good for nothing except on rivers and smooth water. They might, perhaps, answer at the South, but would be wholly useless on the Northern coast. To these calls for forts and ships, the administration members made a somewhat alarming reply. Nelson, of Maryland, repeated a suggestion thrown out by Randolph during the preceding session, that, in case of war, it would probably be necessary to abandon the harbors and sea-coast, and to retire to the interior. Smilie declared that if there were no mode of defending the country except by a fleet, so far as his vote was concerned it should go undefended! It was only for the protection of trade that fleets became necessary, and sooner than build fleets for that purpose, he would give up all the trade of the country. In the same spirit, Logan introduced into the Senate a resolution for repealing the drawback of duties allowed on the exportation

of imported produce. As the carrying trade in foreign goods threatened to involve us with foreign nations, he thought it best to abandon it altogether.

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The commercial members contrasted, with no little bitterness, the parsimony of the administration in expenditures for the security of commerce with the sums lavished for the purchase of Louisiana, and in obtaining cessions of land from the Indians for the convenience of the frontier inhabitants, and the readiness evinced to pay a still further indefinite amount to Spain for the purchase of the Floridas. At this very session sums had been appropriated to carry into execution three Indian treaties negotiated in 1805 and 1806. The sum of \$1100 in cash, and an annuity of \$300, was voted to the Piankeshaws, in consideration of their relinquishment of a considerable tract along the west bank of the Wabash. To the Chickasaws \$22,000 were voted to be appropriated to the payment of their debts; and to the Cherokees \$10,000, in five annual payments, besides the erection within their territory, and for their use, of a grist-mill, and a machine for the cleaning of cotton—compensation to these two nations for their relinquishment of their respective titles to the lands, some small tracts excepted, hitherto occupied by them, north and west of the waters of the Elk, a tributary of the Tennessee.

Nor were the complaints and arguments of the opposition entirely without effect. Notwithstanding a report from the president, in which he entered into a very elaborate defense of the gun-boats, the House cut down the appropriation under that head to \$150,000; and they insisted upon voting as much more for fortifications, notwithstanding the fact, to which attention was called, that of a similar appropriation made at the preceding session, not a third part had been expended. The Senate went further, and struck out altogether the appropriation for

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1807. gun-boats, in which, much to Jefferson's mortification, the House acquiesced. A bill for continuing the additional two and a half per cent. duty, known as the Mediterranean Fund, but now diverted to the general purposes of the treasury, a favorite measure with the administration, came very near sharing the same fate.

Feb. 28. Feeling very acutely the want of some competent person as leader in the House, Jefferson wrote again to Wilson C. Nicholas, pressing him to offer as a candidate. "Never," he wrote, "did the call of patriotism more loudly assail you than at this moment. After excepting the Federalists, who will be twenty-seven, and the little band of schismatics, who will be three or four, all tongue, the residue of the House of Representatives"—he seems here suddenly to pass back from the new to the expiring Congress—"is as well disposed a body of men as I ever saw collected. But there is no one whose talents and standing taken together have weight enough to give him the lead. The consequence is, that there is no one who will undertake to do the public business, and it remains undone. Were you here, the whole would rally round you in an instant, and willingly co-operate in whatever is for the public good."

Since the complete preponderance of the Democratic party, there had been a great falling off in talent on both sides of the House. The Federalists being in a hopeless minority, a seat in Congress had lost, for their ablest men, a large part of its charms; while among the Democrats, the idea of Republican equality and rotation in office had brought forward many very inferior men. Conscious of their inferiority, these Democratic members were, in general, docile enough. Men who had regarded Adams as little better than a traitor sold to the British, and to whom even Washington had been an object of watchful suspicion, as under the influence of very bad

advice, looked up to Jefferson with the most implicit trust and undoubting confidence. They were exceedingly "well disposed," as Jefferson expressed it; but with such marplots about as John Randolph and the abler Federalists, a diligent and powerful watch-dog was much needed to keep the sheep from running astray.

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The hopes raised in the minds of the mercantile community by the president's announcement of a treaty with Great Britain were destined, and by the president's own act, to be suddenly and most disastrously dashed. Previous to Pinkney's arrival in England as joint commissioner, Fox had expressed to Monroe some sensibility at the passage of the non-importation act, as placing him in the disagreeable position of seeming to treat under compulsion; to which Monroe, with a view of smoothing over the matter, had replied, that the bill had been introduced before knowledge in America of the change of ministry in England, and that, upon receipt of that information, its features had been softened and its commencement postponed. About the time of Pinkney's arrival Fox had been taken sick, which caused a delay of several weeks in the commencement of the negotiation. His sickness continuing, Lords Auckland and Howick (afterward Earl Grey) were appointed to conduct the negotiation on the British side. Pinkney's appointment as joint commissioner had excited at first some jealousy in Monroe's mind, which Jefferson took pains to assuage. Pinkney pursued a judicious course, and, while he succeeded in obtaining a controlling influence over the negotiation, he preserved, also, unimpaired harmony with his colleague.

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As the American commissioners were expressly instructed to make no treaty which did not secure American vessels on the high seas against the visitation of

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press-gangs, this naturally became the first topic, upon which several earnest, but friendly and candid discussions took place between the commissioners. Monroe and Pinkney had been instructed by Madison to contend, that as the right of impressment existed by mere municipal law, it could not be exercised out of the jurisdiction of Great Britain. The British commissioners, on the other hand, produced the opinions of the chief law-officers to the effect that the king had a right, by his prerogative, to require, as against his maritime enemies, the personal services of all his seafaring subjects, and the right also to seize by force such subjects for that purpose every where and any where except within the territorial limits of some other power; and further, that the high seas were extra-territorial, and that merchant vessels navigating thereon did not carry with them any such foreign jurisdiction as to protect British subjects on board from this exercise of the king's prerogative. To give up this prerogative would render American ships an asylum for British seamen anxious to evade their country's service, and even for deserters from British ships of war, and might, in the peculiar existing state of things, go far toward the overthrow of that naval power on which the safety of the state essentially depended. The Board of Admiralty and the law-officers of the Admiralty courts were unanimous as to the right of the crown, and the impolicy and danger of giving it up; and, under such circumstances, so the British commissioners stated, the ministry could not give it up, without taking a responsibility such as no administration would be willing to assume, however pressing the emergency.

At the same time, a readiness was avowed to do any thing to satisfy the United States short of a positive relinquishment of the right to impress British seamen on

the high seas; and Monroe and Pinkney were called upon to point out any thing short of such relinquishment which would be satisfactory; but this the American commissioners professed their inability to do. They offered, indeed, by way of offset to the relinquishment upon which they insisted, that the aid of the local authorities in America should be given toward the arrest and return of deserters from British ships, whether national or merchant vessels; but this was not thought satisfactory by the British commissioners, since little could be hoped from such interference, even if exercised in good faith; the popular feeling in both countries being in favor of shielding deserters, while their most likely places of refuge would be on board of American vessels, where, by the stipulation asked for, they would be expressly protected. On their part, the British commissioners proposed that laws should be passed by both nations, making it penal on the one hand for British commanders to impress American citizens, and, on the other, for any officer of the American government to grant certificates of American citizenship to British subjects; but this the American commissioners declared to be inadmissible; and indeed, it raised the whole delicate and disputed question of the right of a subject or citizen to renounce the allegiance under which he had been born.

In this state of the case, a very important question presented itself to the American commissioners. Should they forego the present fair opportunity of settling so many other grave subjects of dispute, because, as to this one, they could not obtain all which they were instructed to ask? The British negotiators declared that although the ministry could not venture to give up, by formal treaty, the right of impressment on the high seas, yet that special instructions should be given and enforced requiring in the officers of the navy the greatest caution

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- not to subject any American-born citizen to molestation or injury, and that, in case of any such injury, upon representation of it, the promptest redress should be afforded. These assurances they reduced to writing, suggesting, at the same time, that while both parties thus reserved their rights, this stipulation might temporarily answer all the purposes of a treaty provision. The American commissioners were, in fact, given to understand, though it was not so expressed in terms, that the intention of the British government was not to allow impressments from American vessels on the high seas except under extraordinary circumstances, such as their having on board known deserters from the British navy; thus gradually and silently abandoning a practice of which the national sentiment did not allow a specific renunciation, going back as it did to an indefinite antiquity, strongly supported as it was by the national feeling, and thought, at the present crisis of European affairs, essential to the national safety.

Every concession on the subject of impressment short of a renunciation by the British government of the claim of right to take British subjects out of American vessels being thus offered to the American commissioners, and having thus placed the United States, as to this question, on ground short, indeed, of their pretensions, and perhaps of their rights, but the best which, at present, there was the slightest prospect of obtaining—especially considering the total inability of the United States to enforce by arms their claim to be exempt from maritime visitation and search, and the total ruin which must ensue, from war with Great Britain, of that maritime commerce which alone made this question of impressments of any practical importance:—under these circumstances, imitating the example of Jay, and of the commission to France in 1799, Monroe and Pinkney did not deem it

consistent either with common prudence or common sense to relinquish the advantage thus within their power, and, along with it, other advantages in prospect, and, by breaking off the negotiation, from a too strict adherence to instructions, to leave the country exposed to vast maritime losses, to the continuance and aggravation of present misunderstandings, and to imminent risk of war. They accordingly resolved to proceed with the negotiation, having first informed the British commissioners that they did so on their own responsibility, and with full reserve to the American government of the privilege to ratify or not, as might be deemed proper.

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The stumbling-block of the impressment question thus removed out of the way, the terms of a treaty for ten years were soon agreed to, based principally on Jay's. By a slight improvement on the provisions of that treaty, the trade between the United States and the European possessions of Great Britain was placed on a basis of entire reciprocity. On the subject of the East India trade the provision was less favorable than Jay's, American vessels being limited in terms to the direct voyage to British India and back. No concessions could be obtained as to the trade to the British West Indies; that stood as before, American vessels being excluded from it. The questions of blockades and of contraband were arranged as in Jay's treaty, an additional express provision being inserted that no American vessels were to be visited or seized within five miles of the American coast. This provision no doubt grew out of the case of Captain Pierce, killed, as we have seen, off the harbor of New York, by a cannon shot from the British ship *Leander*, an act for which the commander of that ship had lately been tried and acquitted by a naval court martial.

On the great point of the carrying trade, as to which

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1806. the decisions of the British admiralty courts had caused so much excitement, the right was conceded, for the present war, to transport in American vessels, to any belligerent colony not blockaded by a British force, any European goods except contraband of war, provided the same were American property, had previously been landed in the United States, and had paid a duty of at least one per cent. above the amount drawn back on re-exportation. In like manner, all the produce of such colonies the property of American citizens, and not contraband of war, might be brought to the United States, and having been landed, and having paid a duty of at least two per cent. exclusive of drawback, might be exported in American vessels to any port of Europe not blockaded.

The issue of the Berlin decree which reached England just as this, on the whole, very favorable treaty was ready for signature, occasioned some hesitation on the part of the British commissioners. They wanted assurances that the United States would not allow their trade with Great Britain and in British merchandise to be interrupted and interfered with by France without taking measures to resent it. Finally, however, they
1807. consented to sign ; but they presented, at the same time,
Jan. 3. a written protest against the Berlin decree, reserving to the British government the right, should that decree be actually carried into force as against neutrals, and be submitted to by them, to take such measures of retaliation as might be deemed expedient. And indeed one measure of retaliation as against France and her allies was immediately taken, by the issue of an order in council restraining neutrals from the coasting trade between one hostile port to another, an extension to all the hostile ports of the principle already applied to the line of coast from Brest to the Ems, under the order in council

of May 16, 1806—an order complained of by Bonaparte as a flagrant violation of the rights of neutrals, and as one of the justifications of the Berlin decree, but which the British sustained on the ground that neutrals had no right to claim participation during war in a trade not open to them in time of peace. CHAPTER
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The same powerful reasons—conclusive to every mind not disturbed by passion or misled by delusive fancies—which had induced the American commissioners to complete and sign this treaty, ought to have operated with Jefferson in favor of its acceptance and ratification. The mutual relations of the two countries were very much the same as at the time of Jay's treaty, and now, as then, the question of ratifying or rejecting was hardly less a question of peace or war. The arguments in favor of ratifying now were even stronger than in the case of Jay's treaty. The president would not have been obliged to encounter by it any violent popular prejudices or popular clamor. The merchants would have been perfectly satisfied, the treaty having granted all they could have expected; while the great body of the back-country Democrats, looking up to Jefferson with a sort of idolatrous reverence, were ready to submit implicitly to his judgment, whatever it might be. It had been a strong objection to Jay's treaty, at least in the minds of a large portion of the people, that it tended to infringe the rights of France; that it was, in fact, a sacrifice of our only sympathetic ally, the great champion of liberty and republicanism, at the shrine of the conspiracy of kings. No such objection could be urged to the present treaty. A release from the obligations, whatever they might be, of the French treaty of alliance, had been purchased at a heavy price by the relinquishment of a great mass of private claims for cruel and piratical spoliations; and the conduct of France as to that affair, and, more re-

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cently, as to the Spanish negotiation and the boundaries of Louisiana, had extinguished all claims she might ever have had on the national gratitude. The French republic, once the object, with many Americans, of such devoted affection, no longer existed. Bonaparte was an emperor, and two of his brothers had lately been made kings. He had even ceased to be a republican emperor, for he had lately surrounded his throne by a whole host of hereditary nobles. Nobody could any longer pretend to see in him the champion of liberty. In fact, the tables were now completely turned, the late kingly and aristocratic conspirators against the rights of man now appearing as the champions of national independence against a terrible military adventurer who evidently aimed at universal empire.

Nor had Bonaparte any longer any claim to be regarded as the champion of neutral rights and of the freedom of the seas. The Berlin decree was a deadly blow at the very existence of neutral commerce, and, in fact, of international commerce of any kind. Notwithstanding the correspondence submitted to Congress between Armstrong and the French minister of marine, the American government already had information of the capture, in the West India seas, of many American vessels, under the pretense of having British merchandise on board; and of the seizure in Europe, under color of the Berlin decree, of British merchandise belonging to Americans, put under sequestration, as it was called, to await the emperor's final decision, to an amount so great as to leave, so Armstrong wrote, very little hope of its release. Such being the precarious condition of American commerce with the continent of Europe, the greater reason existed for preserving a good understanding with Great Britain, especially since in case of a breach with the British, France no longer possessed the power, stripped

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as she was of her navy, to afford the United States the least direct assistance. CHAPTER XIX.

Yet, in spite of all these powerful arguments, and apparently without giving them the least consideration, Jefferson and Madison—for it does not appear that any other member of the cabinet was consulted—steadfastly adhered to the same views which they had so zealously advocated at the time of Jay's treaty. Monroe's diplomatic ideas—thanks, probably, to his protracted residence in Europe—had greatly expanded; but Jefferson and Madison, persisting in their originally narrow and mistaken views, by which they had once already so seriously risked the peace of the country, had, before the new treaty arrived in America, made up their minds that it should not be ratified. Immediately on the receipt of information from Monroe and Pinkney of the disposition made of the question of impressment, and of their determination to go on with the treaty, Madison had dispatched an official letter to inform them that it did not comport with the president's ideas of the sentiments of the nation, popular or legislative, that any treaty should be entered into with Great Britain in which the question of impressment was not settled agreeably to their instructions; and directing them, in case such a treaty had been concluded, at once to notify the British government that it could not be ratified, and to propose a re-commencement of the negotiation.

Considering that Congress was at this time in session; that in the matter of treaties the Senate is the constitutional adviser of the president; and that, according to Jefferson's doctrine, even the House had a right to be consulted, it is not a little remarkable that, without any reference to either of those bodies, in fact even without any cabinet consultation, the president and his Secretary of State should thus have taken it upon themselves to

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pronounce upon the legislative policy and public sentiment of the nation ; and in a case in which not commerce only, but peace itself, was at stake, should thus have made up their minds to reject the treaty upon the single question of impressment, however it might be in other respects advantageous.

This precipitate and, as it proved, disastrous resolution, involving a high exertion of executive authority without parallel in our history, and which would have subjected any other president to the charge of monarchical usurpation, was carried out in the same peremptory spirit in which it had been originally conceived. Within three days after the arrival of the treaty, the resolution not to ratify it was reiterated to the commissioners—a step placed upon the ground, in another more formal letter two months afterward, that the president's duty, and his sensibility "to the sovereignty of the nation," would not allow him, even constructively, to recognize a principle which exposed the liberty of his seafaring fellow-citizens on the high seas to the interested, at least the capricious decision of the naval officers of a foreign government, not entitled by any law or usage to decide upon the ownership of even the slightest article of property. To this statement of the case, so artfully adapted to touch the popular feeling by a display of great regard for the personal rights of American citizens, Monroe afterward ably replied, that the rejected treaty did by no means require any such recognition, either actual or constructive, as had been assumed. The tacit understanding on the subject of impressments, entered into contemporaneously with the treaty, was not intended to operate as a bar to future discussions having in view a positive and distinct arrangement ; on the contrary, by directly tending to a gradual abandonment of impressments from American vessels, it highly favored a definite arrange-

ment such as the United States desired. The question of impressments having been placed on the best temporary basis that the conflicting sensibilities and prejudices of the two nations would admit, reserving to each its original claims in the fullest extent, with the right to push them by negotiation or by any other arbitrament, nothing, so Monroe conclusively argued, could justify the refusal to ratify, except a fixed determination, in case the matter were not speedily arranged by negotiation, to press it to a decision by arms. But Jefferson was far from avowing or from entertaining any intention of appealing to arms. Indeed, the very letter in which it had been first announced to the commissioners that their conduct on the subject of impressments was not satisfactory, and that the treaty would not be ratified, had also suggested that the negotiation might be made to terminate without any formal compact, in a mutual understanding that the practice of the two nations, with a view to peace and good neighborhood, should be made to conform to the stipulations agreed upon as the basis of the treaty. Thus the very terms which the president and his Secretary of State could not reconcile it to their duty—perhaps they might more correctly have said to their antipathies and their commitments—to accept by formal stipulation, they were still anxious to secure by an informal understanding.

The Federalists had long regarded Jefferson with habitual and incurable distrust. They placed no more confidence in his word than the English Roundheads had been accustomed to do in that of Charles I. They refused to believe, in spite of his protestations, that either he or his Secretary of State really wished for any adjustment with England. Hatred of England was the common bond of sympathy that held the discordant elements of the Democratic party together. Take away

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occasions of clamor against England, and what was there to keep up the spirit of the party? The Federalists were, therefore, inclined to regard the rejection of the treaty as a deliberate manœuvre for cherishing popular passions, and thus strengthening the party hold of the president and his destined successor on the masses; to which, in Madison's case at least, there was an additional temptation in the favor and popularity, at least among the merchants and the Federalists generally, which his rival, Monroe, would be certain to secure by the successful negotiation of a treaty with England.

These motives, unconsciously, perhaps, might have had a certain degree of influence; but a less uncharitable view of the case is probably a juster one. Jefferson and Madison, especially the latter, as he had shown on many former occasions, placed very great reliance on the compulsive efficacy, as against Great Britain, of commercial regulations. They probably flattered themselves that it was the threat of the non-importation of British manufactures which had extorted from the British government the concessions made to Monroe and Pinkney; and they hoped that the continued operation of the same threat—under a proclamation issued, shortly after the

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adjournment of Congress, suspending the operation of the act till the following December—would drive that government to an unconditional surrender. But if such was their idea, they found themselves most egregiously mistaken. Before news arrived in England of the refusal to ratify the treaty, the Fox and Grenville administration, the most favorable to America of any British ministry for twenty years before or after, had been superseded, on the death of Fox, by the adherents and disciples of the younger Pitt, under the leadership of Liverpool, Percival, Castlereagh, and Canning; and it was to this new ministry that the refusal to ratify, and

the proposition to reopen the negotiation, were communicated, we shall presently see with what success. The ratification of Jay's treaty secured to the country thirteen years of peace and of unexampled commercial prosperity. The rejection of the present treaty was followed—as if to demonstrate, by melancholy facts, the superior political wisdom of Washington and Hamilton, and to fulfill to the letter the prophecies made at the time of Jay's treaty, and reiterated on the present occasion—by four years of vexatious and ruinous commercial restrictions, to which succeeded two years and a half of most disastrous and aimless war, ending in a near approach to national bankruptcy, and seriously threatening, had it not been unexpectedly brought to a close, the dismemberment of the Union.

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Yet this high-handed and most undemocratic step of rejecting a treaty, involving so seriously the industry and the peace of the country, without even so far consulting the public or gratifying a natural curiosity as to let it be known what that treaty contained, did not in the least shake the implicit confidence which so large a portion of the people reposed in the president. Even in New England the admirers of Jefferson and of his policy continued to gain ground. Connecticut stood firm for Federalism and steady habits; but New Hampshire, since 1805, had fallen completely into the hands of the Democrats, Langdon, once a merchant, but whose large property had long since been vested in real estate, having been chosen governor in that year. Politics in Massachusetts ran very high. During the preceding year a rencounter had taken place in Boston, on the public exchange, in which Selfridge, a Federal lawyer, had shot dead a young graduate of Harvard College, son of Benjamin Austin, a conspicuous leader of the Democrats, the young man having undertaken to give Selfridge a

Fig. 2

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 1807. public chastisement for an alleged insult to his father, growing out of political antipathy. This violence, exceedingly novel in New England, had produced a great excitement. Selfridge was tried, but was acquitted as having acted in self-defense; yet this "Federal murder," as the *Chronicle* called it—the Boston Democratic organ, in which Austin was a principal writer—no doubt contributed to the triumph of the Democrats at the following spring election, which resulted in the choice of Sullivan as governor.
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In Pennsylvania the hopes of the Federalists had been somewhat roused by the uprising of the Constitutional party, into whose hands they had contributed to put the power of the state, as against the ultra Democratic Friends of the People. But at the fall election of 1806, the Friends of the People had secured a majority of one or two in both branches of the Legislature, including among the number Leib, who had resigned his seat in Congress for the express purpose of putting himself at the head of his party in the Pennsylvania Assembly. A stormy session had ensued, new attempts being made by the ultra Democrats to simplify the practice of law by prohibiting the citation of English decisions in the Pennsylvania courts, and by some other innovations not objectionable, perhaps, indeed, desirable in themselves, but not urged with much temper, judgment, or knowledge. As McKean still continued to interpose his veto, thus defeating some favorite measures of the majority, they resorted upon extreme steps. A committee of the House was appointed to investigate the governor's official conduct, and preparations were made toward an impeachment—decisive action being referred, however, to the next Assembly.

Meanwhile in New York, the party struggle between the Lewisites and Clintonians raged with almost equal

violence. The Clintonians, in the election of 1806, had succeeded in securing a decided majority of the Democratic members of Assembly; but the friends of Lewis, by the aid of the Federalists, had obtained the ascendancy in the Council of Appointment; had turned out all the Clintonian office-holders—De Witt Clinton himself from the lucrative place of mayor of New York; and had divided the spoils with their Federal allies. But this appointment of Federalists to office had been held up as a great piece of political heresy; and, at the election of the present year, the tables were completely turned. The real leaders of the Clintonians were De Witt Clinton, and his friend and now brother-in-law, Judge Spencer. But as the grand topic of assault upon Lewis was the overbearing influence of the Livingston family, it was judged expedient not to set up as against him a candidate liable to similar objections. The Clintonians accordingly nominated as their gubernatorial candidate Daniel D. Tompkins, a young lawyer of the city, distinguished for his affable manners and pleasing address, chosen a member of the ninth Congress, but who, before taking his seat, had been appointed a judge of the Supreme Court of the State. Tompkins was elected by a majority of 4000, a result, in part, brought about by the aid of a considerable number of late Federalists, who despaired of that crushed and fallen party, and whose assistance in electing Tompkins was received by the Clintonians as satisfactory proof of their conversion to Republicanism. The Federalists, indeed, attempted to make a rally in the city of New York, where they nominated an Assembly ticket headed by Rufus King. They were beaten, however, an event which they ascribed, with much bitterness, to the predominating influence of those “imported patriots” Cheetham, Genet, (who now again appeared on the political stage,) and Thomas Addis Emmett, a recent

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exile from Ireland, where he had escaped a prosecution for treason only by consenting to make certain disclosures as to the conspiracies in which he had been concerned. Emmet had attacked King with great bitterness and no inconsiderable degree of gasconade, for having, while minister in England, endeavored to interpose some obstacles to his migration to America on the ground that so troublesome a British subject would not be likely to make a very useful American citizen. It is exceedingly difficult for us at this day to comprehend the degree of influence exercised at that time over American politics by a few immigrant foreigners. The talents and eloquence of Emmett secured him a decided and growing influence in New York; and in the impulse which he gave to the spirit of war, he did not fail to fulfill the prognostications of King. The completely successful Clintonians carried the state as well as the city, not only electing their governor, but a majority in both branches of the Legislature, which gave them, prospectively, the Council of Appointment, with the whole control of the politics of the state.

While these various affairs occupied attention, the eyes of the public were drawn to Richmond, where Burr, shortly after his arrival there from Mississippi, under a guard, on his way to Washington, had been examined and held to bail upon a charge of setting on foot, within the territories of the United States, a hostile expedition against the Spanish provinces. It had been decided by the Supreme Court of the United States, in the case of Swartwout and Bollman, that although, by the Federal Constitution, treason consists only in levying war against the United States, yet that an overt act of levying war may be committed not only without the use of any actual force, but even without the bodily presence of the party charged. The array of an armed force—so the

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court had expressed their opinion—with intention to overthrow the authority or resist the laws of the United States, amounted to an overt act of levying war, of which all those were guilty who had any direct connection with it, though not actually present. Under this view of the law, an indictment for high treason was presently found against Burr by a grand jury for the District of Virginia, selected by the marshal from among the most eminent inhabitants. The levying of war relied upon was the collection of armed men at Blennerhasset's Island, within the limits of Virginia, of which it was proposed to prove that Burr, though not personally present, had been the cause and instigator, he having been concerned with Blennerhasset and others in the concoction of a scheme, in which these men were to co-operate, for overturning the authority of the Federal government in the Western country generally, or, at least, in the Territory of Orleans.

The trial, and also the hearing of several preliminary and interlocutory motions, took place before Chief-justice Marshall, who presided with great dignity, ability, and impartiality, holding the court in conjunction with Griffin, the district judge. The prosecution was conducted by Rodney, the attorney general, assisted by District attorney Hay, and by William Wirt, already holding a conspicuous position at the Virginia bar. The prisoner was defended by Edmund Randolph, formerly attorney general and secretary of state, by Luther Martin, and other eminent council; and every point, from the beginning to the end of the proceedings (which, owing partly to the absence of witnesses, were protracted through the entire summer), was contested with the greatest keenness, vehemence, and even passion.

The guilt or innocence of Burr, like every thing else in those times of excitement, had been made a party

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question, and was discussed with exceeding earnestness. The Federalists, by way of throwing odium and ridicule on the administration, were inclined to make light of the whole affair of Burr's enterprise, and especially of the charge of treason, as a mere chimera of fear, fancy, hatred, treachery, and revenge. The Democrats, on the other hand, seemed to regard the conviction of Burr as necessary to the vindication of the steps taken by the administration to defeat his enterprise; and they charged the Federalists, to whom they were inclined to turn over Burr, as belonging to them rather than to the Democratic party, with being apologists for treason, and with seeking to screen a traitor from the punishment due to his crimes. Jefferson, who had neither forgotten nor forgiven Burr's interposition between him and the presidential chair, watched the progress of the trial with the greatest interest. He sent frequent directions to the prosecuting officers; nor did he hesitate in his private correspondence, to throw out insinuations against the conduct of the chief justice—insinuations re-echoed by many of the Democratic papers, but wholly ungrounded. It was, indeed, the impartiality of the chief justice which made him appear partial to those hot and one-sided partisans. By an important interlocutory decision the issue was allowed on the prisoner's motion, of a summons to the president to produce certain papers deemed essential to the defense. In the prosecutions growing out of the Miranda expedition, Jefferson had directed his secretaries not to obey the summons of the court to be present and to testify on behalf of the prisoners. The present decision he seemed to consider as a direct personal insult to himself. Yet Marshall, while sustaining the prisoner's right to have the summons issued, had declared that the court would not allow such process to be used as a means of personal annoyance;

and had been very cautious about indicating any disposition to enforce obedience to the process any further than the president's own sense of justice, of what might be due to the prisoner on the one hand, and to the public on the other, might induce him to yield it.

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The trial on the main question, which did not fairly commence before the beginning of August, occupied nearly the whole of that month. The greatest efforts of Burr's council were directed to destroy the testimony of Eaton and Wilkinson; in the latter case by insinuations that Wilkinson was, in fact, an original confederate of Burr, and that, having betrayed him, he now sought to add to the importance of his disclosures by attempting to magnify Burr's guilt. To give additional color to this charge, it was also insinuated that Wilkinson had been a Spanish pensioner, engaged of old in intrigues against the Union. The Federal newspapers eagerly caught up and repeated these calumnies; and, being subsequently urged by John Randolph, and other bitter and persevering enemies of Wilkinson, they became matters of investigation by committees of Congress and military courts. The honorable acquittals of Wilkinson pronounced by these tribunals, after a thorough sifting of the facts, seem well sustained by the evidence. Yet such charges, once made, are with great difficulty wholly silenced; and these insinuations against Wilkinson still continue to float in the public mind, and to be rashly repeated to his injury by writers who know very little of the facts. An effort to break down Eaton by evidence as to his military conduct while stationed in Georgia, proved a total failure, rebounding with great force upon the heads of the witnesses by whom it was attempted.

Aug. 2.

The evidence being all in, the counsel were heard at length on the question of its sufficiency to lay the foundation for a charge of treason. Marshall's opinion and

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 Aug. 11. the charge of the court to the jury was, that the prosecution had failed in two essential points. It was not proved that there had been any military array on Blennerhassett's island. Thirty or forty men had assembled there, but it did not appear that there was more of military organization among them, or that more were armed than was customary among similar companies of boatmen and emigrants. In the second place, even had a military array been proved, it was not shown that Burr or Blennerhassett had any thing to do with the presence of these men on the island. They came, it appeared, from up the river; but no evidence had been given that Burr had any agency in their enlistment or embarkation.
- Sept. 1. Under this charge the jury returned a verdict of not guilty, whereupon the indictments for treason which had been found against Blennerhassett, Dayton, Smith of Ohio, Tiden, and Floyd, were abandoned. A second trial followed, on a charge of setting on foot a military expedition against the Spanish territories; but, as evidence was excluded of all acts which had not occurred within the District of Virginia, with which Burr could not be lawfully connected, this also resulted in a verdict of not guilty. A third examination was then commenced to show that Burr and Blennerhassett, one or both, might have committed treason by a military array with intent to levy war against the United States, at the island in the mouth of the Cumberland River, or lower down on the banks of the Mississippi, or at least that they might have been guilty of a misdemeanor in setting on foot an expedition against the Spanish provinces: and the court was requested to commit them for trial in any District in which they might seem to have perpetrated some of these offenses. Finally they were committed for trial in the District of Ohio upon the charge of setting on foot a military expedition against the
- Sept. 1.
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provinces of Spain, and they accordingly gave bail for their appearance, each in the sum of three thousand dollars. But they failed to appear, their recognizances were forfeited, and no trial was ever had. The trial of Judge Wortman and of some others, on similar charges, in the Territory of Orleans and the State of Ohio, resulted in acquittals. Floyd, who was tried in the Indiana Territory, was found guilty of a misdemeanor.

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Withdrawing himself as speedily as possible from public observation, Burr presently embarked for Europe, hoping to engage the English or some other European nation in his project of revolutionizing Mexico, and wishing also, no doubt, to escape the immediate pressure of his creditors. But the sudden turn of Spanish affairs in consequence of the rising against Bonaparte proved fatal to his hopes as far as England was concerned. He soon became an object of suspicion, probably as a French spy, and, under the alien law, was ordered out of the country. Thence he proceeded to France; but Bonaparte regarded him as a British spy, and he was long detained in Paris, at times in the deepest poverty, supported by some scanty remittances from America. Finally, after long solicitations, he obtained leave to return home just before the breaking out of the war with England. Arriving in New York, he found himself, in his old age, and still harassed by his creditors, obliged to resume the practice of the law for support. The death of his only daughter, lost at sea on a voyage from Charleston to meet him, left him without family ties. Yet, amid all this loneliness and embarrassment, his remarkable equanimity did not desert him; and he lived twenty-four years longer, shrouding himself with that mystery and obscurity which he so much affected, and dying at last (1836), after surviving almost all his cotempo-

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aries, at the age of eighty—a remarkable example of the mutability of political fortune.

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The public attention, at first quite absorbed by the proceedings against Burr, was soon diverted by two gross outrages upon the sovereignty of the United States—one of the first fruits of the rejection of the late proposed arrangements with Great Britain: and which served to make any future accommodation the more hopeless, as well by exasperating the feelings of the American people as by presenting to the British ministry and nation striking proofs of the helplessness of the American government.

The British sloop of war *Driver* having been in company with the *Leander* at the time of the unfortunate homicide of Peirce off the port of New York, and within the waters of the United States, by a cannon-shot from that vessel, had been forbidden by the president's proclamation, issued on that occasion, ever again to come within the waters of the United States. The *Driver*, however, in the course of the spring, put into Charleston to fill her water-casks: and, though informed of the proclamation, and requested by the authorities to depart, her commander refused to do so until it suited his own convenience. This, however, was nothing to what happened soon after, in the case of the American frigate *Chesapeake*.

Congress having granted five hundred additional seamen, steps had been taken toward fitting out the *Chesapeake* to relieve the *Constitution*, then in the Mediterranean, and to carry out Commodore Barron, again appointed to command on that station. While the *Chesapeake* lay at Washington, getting ready for her cruise, there entered at the naval recruiting station at Norfolk three seamen, deserters from the British frigate *Melampus*, and four others, deserters from the *Halifax*, vessels at

tached to a British squadron employed in the Chesapeake to watch and blockade certain French cruisers which had taken refuge at Annapolis. An arrangement for the return of British deserters had been held out by the American commissioners, during the late negotiation, as one inducement to the British to abandon the practice of impressment on the high seas. Independently of such a special arrangement, there was no obligation to deliver up deserters, and in defect of any law on the subject, in fact, no authority to do so; more especially if these deserters were, what they always claimed to be, American citizens who had been pressed into the British service. A formal demand had been made for the deserters from the *Melampus* by Erskine, a son of the celebrated lawyer of that name, lately appointed, through his father's interest with the Fox administration, minister to the United States as Merry's successor. The answer was in the terms of a former one to a similar application, that the American government were under no obligation, and, in fact, possessed no power to surrender deserters; yet that, so far from countenancing desertion, general orders had been given to the recruiting officers to enlist no British subjects known to be such; and it appeared, by an examination of the matter which Commodore Barron had been directed to make, that these particular men were, in fact, American citizens, who had, as they alleged, been pressed into the British service. The deserters from the *Melampus* were all three colored persons, and it was afterward sufficiently proved that two of them were born in Maryland, the third being a South American by birth, but brought at an early age to Massachusetts, where he had been educated. It was stated, however, by the captain of the American merchant ship to which they had belonged previous to entering on board the *Melampus*, that, so far from being impressed,

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they had deserted his vessel in the port of London, being suspected of a theft, and had enlisted voluntarily into the British service. With respect to the deserters from the *Halifax*, the captain of that vessel having himself seen them on shore at Norfolk, had demanded them, through the British consul, of the recruiting officer and the authorities of Norfolk, but without effect.

After two months' preparation, the *Chesapeake* sailed from Washington, intending to complete her crew and equipments at Norfolk. She had as part of her crew the seven men claimed as British deserters, but on the passage down, three of the deserters from the *Halifax* deserted from the *Chesapeake*, leaving on board of those claimed by the captain of the *Halifax* only Wilson or Ratford, an Englishman by birth, and the three colored men from the *Melampus*.

The desertions from the British *Chesapeake* squadron had produced a good deal of excitement among the British officers, some of whom complained of having been insulted while on shore at Norfolk by deserters from their own ships; and Admiral Berkeley, commanding on the North American station, encouraged, perhaps, by the news of the failure of the American negotiation and of the change of ministry in England, had taken it upon himself to issue a circular order, dated at *Halifax* the 1st of June, and addressed to all the captains and commanders on his station. It recited that many seamen, subjects of his Britannic majesty, and serving in his majesty's ships and vessels, as per margin (to wit, *Belleisle*, *Bellona*, *Triumph*, *Chichester*, *Halifax*, and *Zenobia*), had deserted from those vessels, had enlisted on board the American frigate *Chesapeake*, and had openly paraded the streets of Norfolk, in sight of their officers, under the American colors, protected by the magistrates of the town and the recruiting officer, who refused to

give them up either on the demand of the commanders of the ships to which they belonged or on that of the British consul. The captains and commanders to whom this circular was addressed were therefore directed, in case of meeting the frigate Chesapeake at sea, and without the limits of the United States, to show to her captain this order, and to require to search his ship for the deserters, and to proceed to search for them; and if the captain of the Chesapeake should make a similar demand, to allow him to search for deserters from the American service, "according to the customs and usages of civilized nations on terms of peace and amity with each other."

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Here was a remarkable specimen of naval exposition of the law of nations, such, however, as are constantly occurring, especially in times of war, on the part of strong nations towards weak ones. The "custom and usage" referred to were a pure figment of Admiral Berkeley's imagination. The British civilians, whatever might be their doctrine as to merchant vessels, made no pretense of the existence of any right to visit foreign ships of war for the purpose of seizing British seamen, whether deserters or others. A ship of war on the high seas was admitted to carry the national jurisdiction with it; and, had the whole crew of the Chesapeake been British deserters, being on board that national ship, they were as much under the protection of the national flag as if in the streets of Baltimore or Norfolk.

The idea, however, of searching foreign ships of war for deserters was not original with Admiral Berkeley. Advocates for that practice had appeared in the columns of the British newspapers and on the floor of Parliament. Nor was the case of the Chesapeake the first in which it had been exercised. The instance off Havana, during the difficulties with France, in the time of John Adams,

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1807. already recorded in a previous chapter, had occasioned, as has been already mentioned, the issue of a standing order to all commanders of American ships of war never to allow their crews to be mustered except by their own officers. For that affair an apology had been tendered—more than seems to have been done in a more recent instance, in which one of the American gun-boats sent to the Mediterranean had been overhauled by one of the ships of Lord Collingwood's fleet off Cadiz, and robbed of three of her crew, under pretense that they were British subjects; an outrage which does not appear to have been made even a subject of remonstrance.

June 22. The Chesapeake, having at last completed her armament and crew, got under weigh from Hampton Roads, and wholly unconscious of danger, set sail on her intended voyage. For executing Berkeley's orders, as well as for the purposes of general surveillance, there lay in Lynnhaven Bay three British vessels, the *Melampus* of thirty-eight guns, one of those from which the desertions had taken place, the *Leopard* of fifty guns, and the *Bellona* seventy-four. The *Leopard* got under way at the same time with the *Chesapeake*, and stood out to sea a few miles ahead of her, a proceeding in which there was nothing to alarm, as the British ships were constantly changing their stations. When both vessels were some seven or eight miles outside the *Cape* of the *Chesapeake*, having, as they proceeded to sea, approached each other, the captain of the *Leopard* hailed, and desired to send some dispatches on board. Nor was there in this anything suspicious, as it was customary with the British ships of war to avail themselves of such opportunities for sending letters to England. *Barron* accordingly brought the *Chesapeake* to ; the *Leopard* also came to ; and presently a boat was dispatched to the *Chesapeake*, with a lieutenant, and a note from Hum-

phries, captain of the Leopard, inclosing the above-quoted circular order of Admiral Berkeley's. This note took Barron entirely by surprise; and after detaining the lieutenant for half an hour, he sent back a reply, denying any knowledge that any British deserters were on board the Chesapeake, and stating that the recruiting officer had been specially instructed not to enlist any. The note added that his orders did not permit him to allow his men to be mustered by any body except their own officers.

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Engrossed as his attention had been by the preparation of his answer to so extraordinary a demand, it does not seem yet to have occurred to Barron that there could be any intention to use force. The officers of the ship suspecting something wrong, had been busy in attempting to clear the decks; but several hours would have been needed to prepare the ship for action. Without the least thought of encountering an enemy, she had gone to sea in a very encumbered condition. Her men had never been exercised at the guns, and though she had been more than six months in fitting out, her equipments were found to be exceedingly imperfect. The Leopard lay in a very favorable position for her purpose, within pistol-shot of the Chesapeake's weather-quarter, with guns pointed and matches lighted. The idea that force might be used seems first to have struck Barron, after having dispatched his note, and he ordered the men to be silently called to quarters, and preparations for resistance to be hastened. But as soon as Barron's note was received, the British captain hailed as follows: "Commodore Barron must be aware that the orders of the vice-admiral must be obeyed;" and Barron replying that he did not understand, this was repeated several times. A shot then came from the Leopard's

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Two British lieutenants and several midshipmen soon came on board the Chesapeake, mustered her crew, and, after a three hours' examination, carried off the three deserters from the Melampus, and also Wilson or Ratford, the deserter from the Halifax, who was found concealed in the coal-hole. Pending these proceedings, Barron sent a note on board the Leopard, stating that he regarded the Chesapeake as her prize, and offering to deliver her up to any officer authorized to receive her. Humphries replied, that, having fulfilled his instructions, he desired nothing more ; offering, at the same time, every assistance, and expressing his regret that any lives should have been lost in the execution of a service which might have been adjusted more amicably,

not only as regarded themselves, but as between the nations to which they respectively belonged.

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This offer of assistance was indignantly rejected, and, her officers and crew in a state of great bitterness, gloom, and mortification, the Chesapeake made the best of her way back to Norfolk. The four men taken from her were carried to Halifax, and were there tried by court-martial, and sentenced to death as deserters. Ratford or Wilson, who was proved or confessed himself to be a British subject, was hanged. The others, whose claim to be Americans could not be disproved, were reprieved on condition of re-entering the British service ; not, however, without a grave lecture from Berkeley on the enormity of their offense, and its tendency to provoke a war—one of those cases, surely, in which the judge and the culprits might well have changed places.

No sooner was the return of the Chesapeake known at Norfolk, and the occasion of it, than a public meeting was held, at which resolutions were adopted to allow no further intercourse with British ships of war till the president's pleasure should be known. To these resolutions, Captain Douglas, commanding the British squadron in the Chesapeake, made at first a very insolent and threatening response ; and apprehensions were entertained, from the tenor of his letter, that the British ships might attempt to make their way up to Norfolk, or might land at other points, and supply themselves by force. So great was the alarm, that Cabell, governor of Virginia, ordered detachments of militia to Norfolk and Hampton. But Douglas, in a second letter, soon lowered his tone. The news, as it spread, produced every where the greatest excitement, the mortification of the insult being aggravated by the Chesapeake's helpless non-resistance to it. A high degree of anger against Great Britain was kindled

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July 2. The president issued a proclamation complaining of the habitual insolence of the British cruisers; expressing, however, the belief that the present outrage was unauthorized; but in the mean time ordering all British ships of war to quit the waters of the United States; and in case they refused—for to compel them the government, unfortunately, had no power—forbidding any intercourse with them. The money voted at the last session of Congress for fortifications was expended at New York, Charleston, and New Orleans, as being the points most exposed. Most of the gun-boats in commission were ordered to the same points, and the president assumed the responsibility of directing purchases of military stores, of which the magazines had been suffered to become almost entirely empty, and of timber for additional gun-boats. A hundred thousand militia were ordered to be detached by the different states, ready for service, but without pay; and volunteers were invited to enroll themselves. Congress was called together by proclamation some weeks in anticipation of its usual time of meeting. A court of inquiry was ordered into the conduct of Barron and his officers; and finally a vessel was dispatched for England, with instructions to the American ministers to demand reparation, and to suspend all other negotiation until it should be granted.

July 25. Berkeley had sent from Halifax a dispatch-boat, which carried to England the first news of this affair; upon receipt of which, Canning, on behalf of the British ministry, expressly disavowed the act, and tendered repara-

tion for it. He also informed the American ministers that orders had been sent out recalling Berkeley from his command. Thus far every thing was promising; but the instructions sent from Washington placed serious obstacles in the way of a speedy settlement. Not only was a pecuniary compensation demanded for the families of the killed, and besides other apologies the restoration of the four men taken from the Chesapeake, all which the British government was ready enough to grant (except as to the man who had been hanged); but it was attempted to connect the reparation for this attack with the standing claims of the American government on the subject of impressments; it being insisted that, by way of security for the future, the visitation of American vessels in search of British subjects should be totally relinquished.

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This demand gave the British government an advantage which they did not fail at once to seize. They complained of it as an attempt to connect two entirely distinct subjects, the reparation of a disavowed outrage with the relinquishment of an unquestionable right of the British government. They assumed, in their turn, the position of an injured party, complaining of the president's proclamation ordering all British ships of war out of the American waters as in itself a retaliation, without first having demanded reparation, as was required by one of the perpetual articles of Jay's treaty, and as going, therefore, to diminish the right of the American government to voluntary reparation on the part of the British. As Jefferson, on his side, had determined to yield nothing of what he considered the utmost rights of America, so it became evident that the British government were resolved, on their side, to take advantage of every punctilio—a game always sure to redound to the benefit of the stronger party.

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- So far from yielding to the reiterated demands of the American government on the subject of impressments, a royal proclamation was presently issued, calling upon all British mariners employed in the service of foreign nations, whether on board merchant vessels or in ships of war, forthwith to leave that service and to hasten to the aid of their native country menaced and endangered, and her maritime rights, on which her greatness depended, called in question. All commanders of foreign ships of war were authorized, by the same proclamation, to seize and bring away from on board foreign merchant vessels all British mariners; but without any unnecessary violence. A demand was also to be made for all British mariners serving on board of foreign ships of war, and should such demand be refused, notice of the refusal was to be given to the commander-in-chief of the squadron to which the ship might belong, the same to be transmitted to the British minister resident with the nation whose flag was borne by the refusing ship, or to the British Admiralty, in order that measures for redress might be taken. Monroe objected to this proclamation that it seemed to shut the door to negotiation on the subject of impressments; to which Canning rejoined, that it was only a declaration of the existing law and practice necessary for the information of the officers of the British navy, who might be at a loss, since the affair of the Chesapeake and its disavowal by the British government, to know by what rule to regulate their conduct.

As the instructions sent to the American ministers at London made it impossible for them to bring the affair of the Chesapeake to a conclusion, the British ministry thought proper to send to America, for the sole purpose of arranging that affair, Mr. Rose, son of one of their number, and his departure for the United States was

speedily followed by that of Monroe, Pinkney being left behind as resident minister. CHAPTER
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Just previous to Monroe's departure, Canning made a formal and final reply, on the part of the British government, to the proposal to renew negotiations on the basis of the late treaty returned unratified. He protested very energetically against the privilege sought to be assumed by the American government of revising and altering agreements concluded and signed on its behalf by its duly authorized agents, with a view to retain so much as might be favorable to itself, and to reject all the rest; a practice which, if imitated by the other party, as it naturally would be, tended to protract negotiations indefinitely, and to render settlement hopeless. He was ready to hear any suggestions which the American ministers might have to make with a view to the arrangement of existing differences; but the proposal to proceed to negotiate anew on the basis of a treaty already concluded and signed, and afterwards rejected by one of the parties, was wholly inadmissible. 1807.
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Thus fell to the ground all hopes of settling the existing difficulties with England by negotiation. From this moment the relations of the two countries took on a very angry and quarrelsome character. That suspicion and hatred of England, so deeply ingrained into Jefferson and his partisans, was fully retorted by suspicion and dislike on the part of the British Tory ministers and their supporters, whose prejudices were not less vehement and bitter; to which was added a feeling of contempt, naturally inspired by the unwarlike and defenseless posture of a country so lofty in its tone and so punctilious in its demands—for, practically, it is with nations as with individuals, a piece of ridiculous folly to insist strenuously on exact justice unless one has the means to

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party in England to whom, upon mere considerations of policy, the idea of a war with America was by no means disagreeable. The United States could add little to that formidable combination against which the British government had already to contend, while their vast navigation afloat on every sea promised a rich and easy spoil. The American market might indeed be lost, or partly so; but that loss, it was believed, would be more than made up for by the absorption of the American carrying trade, and the consequent engrossment by Great Britain of the ocean commerce of the world.

In the United States, the more intelligent part of the people, especially those immediately interested in commerce, looked upon the state of affairs with no little alarm. With a navy of gun-boats, and militia for the principal military force, actual war did not seem very probable; at least so long as Jefferson remained president. What was rather to be expected was an indirect war of commercial regulations, so far as commerce was concerned vastly more harassing than all the impediments placed in its way by Great Britain; and which, by keeping up and increasing irritation, seemed certain, however those in authority might think and wish otherwise, to end at last in armed collision.

